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Vol. V

TRANSCRIPT OF RECORD

(Pages 3009 to 3566)

Supreme Court of the United States

OCTOBER TERM, 1946

No. 343

STATE OF NEW YORK, STATE OF DELAWARE, STATE OF INDIANA, ET AL., APPELLANTS,

vs.

THE UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, STATE OF ALABAMA, ET AL.

No. 344

STATE OF MAINE, STATE OF NEW HAMPSHIRE, STATE OF VERMONT, ET AL., APPELLANTS,

vs.

THE UNITED STATES, OF AMERICA, INTERSTATE COMMERCE COMMISSION, ET AL.

No. 345

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, BEAVER, MEADE AND ENGLEWOOD RAILROAD COMPANY, CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, ET AL., APPELLANTS,

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HAROLD H. MCCARTY was sworn and testified as follows:

Direct examination.

By Mr. Davidson:

Q. Will you give the reporter your full name and occupation, please, Mr. McCarty?

[fol.2416] A. My name is Harold H. McCarty. I live in Iowa City, Iowa. I am associate professor in the college of economics of the State University.

Q. How long have you been associate professor in the college of economics of the State University?

A. I have been engaged for 19 years in teaching and research in economics and geography.

Q. How long have you been associate professor in that department?

A. Four or five years.

Q. Have you written or published any books or pamphlets in connection with the subject of your teaching?

A. Yes. I have made several studies concerning manufacturing in Iowa and the Middle West. I have also written a book on the economic geography of the United States, a text book.

Q. Of course you are familiar with these proceedings, dockets 28300 and 28310, are you not?

A. Yes.

Q. You know something about the purpose of them?

A. Yes.

Q. In connection with these proceedings were you asked to do some research work with regard to the economics in the Middle West?

A. Yes, sir.

Q. Have you prepared either yourself or under your [fol. 2417] direction or in connection with your associates an exhibit for presentation in this case?

A. Professor Bentley and I have prepared an exhibit of maps and tables.

Mr. Davidson: May this exhibit be given a number, Mr. Chairman?

Chairman Aitchison: This exhibit will be marked for identification as Exhibit No. 120.

(Exhibit 120, Witness McCarty, marked for identification.)

By Mr. Davidson:

Q. Your exhibit has been marked for identification, for the record, as No. 120. I will ask you to refer to that, please, and briefly explain the various maps that are contained therein together with the data in the back of the exhibit, if you will, please.

A. Our purpose in preparing these maps was to show in as much detail as possible, geographically, the economic development of the 12 states indicated on the title page.

Chairman Aitchison: Professor, the thing we are interested in is having it shown with as little detail as possible.

The Witness: We believe we have a minimum number of maps, but the distribution geographically is localized as far as we can get it.

By Mr. Davidson:

Q. Your first map is a population map, is it?

[fol. 2418] A. Yes. All of these are conventional dot maps.

Q. Showing the 12 states in the central part of the United States?

A. That is correct.

Q. Each dot——

Chairman Aitchison: We are able to read a dot map, Mr. Davidson.

Mr. Davidson: Very well.

By Mr. Davidson:

Q. The explanations are on the bottoms of each of the maps, are they not?

A. That is correct.

Q. Showing the relative proportion of the dot to the value or to the quantity, is that correct?

A. That is correct.

Q. Now, is there anything else that you want to say in the way of explanation with regard to these maps, other than what is shown on the bottom?

A. I believe they are self-explanatory.

Chairman Aitchison: Do you draw any inference from them?

Mr. Davidson: I am going to ask him that.

By Mr. Davidson:

Q. Going back to the statistical data in the back of the exhibit, there appears to be some 350 commodities shown there with regard to these states, that are manufactured in these states, is that correct?

A. Are you referring now to page 11?

[fol. 2419] Q. Yes.

A. Yes. That is a detailed breakdown of the manufacturing and industries reported by the census for the 12 states.

Q. The purpose of it is to show in detail figures with regard to manufactures in corroboration of the maps on the preceding pages?

A. Yes.

Q. Is that correct?

A. Yes.

Q. Now, I am going to ask you this question, particularly with respect to the State of Iowa, and also for these other states:——

Chairman Aitchison: Just a minute, please, Mr. Davidson.

Mr. Davidson: Yes.

Chairman Aitchison: Have you checked up with Mr. Schreiber's exhibit to see whether or not they correspond?

The Witness: They appear to be comparable.

Chairman Aitchison: Proceed.

By Mr. Davidson:

Q. You are familiar, are you not, with the Western Trunk Line rate territory as prescribed by the Interstate Commerce Commission?

A. Yes, sir.

Q. You are also familiar with Central Freight Association Territory as prescribed by the Interstate Commerce Commission, are you not?

[fol. 2420] A. Yes.

Q. And likewise with zone 1 of Western Trunk Line territory?

A. Yes.

Q. Now, Professor, from the studies you have made, you and Professor Bentley, as shown by this Exhibit No. 120 and from the maps and data contained therein, is there anything to indicate any pronounced differences economically between zone 1 of Western Trunk Line territory and Central

Freight Association territory east of the Mississippi River?

A. There are no pronounced economic differences along those lines.

Q. That is the purpose of this Exhibit No. 120, is it not?

A. It is.

Mr. Davidson: You may cross-examine.

Chairman Aitchison: Is there any cross-examination?

Mr. Hughes: One question.

Cross-examination.

By Mr. Hughes:

Q. Is it correct to say that you have confined your studies in Exhibit No. 120 to what you define as economic differences?

A. Yes. They would all classify as economic differences.

Q. You have not made any corresponding study of what are usually referred to as transportation conditions which would bring the railroads into the picture?

A. No, not in this study.

[fol. 2421] Mr. Hughes: That is all.

Chairman Aitchison: Is there anything further?

Mr. Bee: I would like to ask one question.

Chairman Aitchison: Mr. Bee.

By Mr. Bee:

Q. Professor, did I understand you to say that this study indicates no differences between Eastern territory and zone I of Western territory?

A. No. I intended to say that the lines or boundaries in existence do not marked the significant differences between the territories.

Q. Now, let us look at pages 11, 12 and 13, Professor.

A. Yes.

Q. Take Ohio as in Eastern territory and Missouri as in zone 1 territory.

A. Yes.

Q. Is there a marked difference between the number of manufacturing establishments in those two territories?

A. I would not deny that there are great differences as among the states, but I do not believe that the existing boundaries correctly define the extent of those differences or geographic extent of those differences.

Q. Where will we get the boundary that will describe it definitely?

A. I am afraid that is a problem for the Commission.

Q. Do you know the boundaries of zone 1 territory in [fol. 2422] Western Trunk Line?

A. Yes.

Q. Would you say that there are as many manufacturing industries located, area considered, in zone 1 of Western Trunk Line territory, as there are in Eastern territory that you have depicted on your Exhibit No. 120?

A. There are not as many manufacturing concerns, I believe, in zone 1 territory.

Mr. Bee: Yes.

By Mr. Bee:

Q. Are they as high type manufacturing concerns as the manufacturing concerns you show east of the Mississippi river?

A. By "high type", you mean adding more value?

Q. Yes.

A. In general those west of the Mississippi are not as high type.

Mr. Bee: Thank you very much. That is all.

Chairman Aitchison: Mr. McCollester.

By Mr. McCollester:

Q. Professor, if there is any discrepancy between your orally expressed opinion and the statistical showing made by the exhibit and the maps contained in the exhibit, I assume you would agree, would you not, that the exhibit should control being the source of the data?

A. Yes, sir.

Q. For example, will you look at the map, page 10, value [fol. 2423] of manufacturing products.

A. Yes.

Q. Would you want your statement to the effect that there is no economic difference between Central territory and the four states in zone 1 of Western Trunk Line territory to be construed as correctly descriptive of Missouri in relation, we will say, to Ohio?

Chairman Aitchison: He said, pronounced economic difference.

Mr. McCollester: That may be the difference, Mr. Chairman.

Chairman Aitchison: He did not say "any difference".

The Witness: Neither did I say, or neither was I comparing one-half of this territory with the other half. I was rather objecting to the boundary that might be drawn between the different territories.

By Mr. McCollester:

Q. Then you would not take into your description of the zone 1 territory that you consider has no pronounced differences between it and Central Freight Association territory, that part of Missouri lying west of St. Louis?

A. I would not base any conclusion on any single map.

Q. So far as manufacturing products are concerned, the conclusion I have stated would be required, would it not, by your own statistics?

A. Quite true.

[fol. 2424] Q. I beg your pardon?

A. Quite true.

Q. Similarly, when you consider Minnesota, the only portion of Minnesota that is comparable with Ohio would be the region of the Twin Cities so far as manufacturing is concerned?

A. Yes, sir.

Q. Similar comments could be made on most of the other maps shown in the exhibit, is that not correct?

A. No.

Q. Except that when we talk about butter and eggs, perhaps——

A. You would get different groupings in different maps.

Q. From the standpoint of buying income, map No. 2, you certainly would not say, would you, that all of Missouri is comparable with Ohio, Indiana or Illinois?

A. No, sir.

Q. From the standpoint of density of population, may 1, neither is all of Missouri comparable with the Central Freight Association states?

A. That is true.

Mr. McCollester: That is all.

By Mr. Davidson:

Q. With respect to the questions directed to you in connection with zone 1 of Western Trunk Line territory, the statements you have made and the testimony you have given were directed to a comparison of the territories as a whole, is that not true?

[fol. 2425] A. That is correct.

Q. Some of these other maps show various types of industry and agriculture, and how they predominate in the respective territories, and other types of commodities, is that not true?

A. That is right.

Q. The one you have been directed to hereon cross-examination as being manufacturing alone does not show the entire picture, does it?

A. No.

Q. That is only a small integral part of the entire economic picture of this territory?

A. Yes.

Q. Is that true?

A. That is right.

Mr. Davidson: That is all.

Mr. J. R. Bell: I have one question.

Chairman Aitchison: Mr. Bell.

By Mr. J. R. Bell:

Q. Are these maps in your exhibit drawn to scale?

A. Yes, sir. These maps are drawn to scale. They are maps from the United States Department of Agriculture.

Chairman Aitchison: Is there anything further, Mr. Bell?

Mr. J. R. Bell: No.

Chairman Aitchison: Are there any other questions of this witness? (No response.) You are excused.

(Witness excused.)

[fol. 2426] Mr. Davidson: I want to offer in evidence Exhibit No. 120.

Chairman Aitchison: Without objection, it is received.

(Exhibit 120, Witness McCarty, received in evidence.)

Mr. Davidson: Now, for the purpose of the record, Professor Bentley who is a professor for the Iowa State College at Ames, Iowa, who prepared the agricultural maps, is here for cross-examination on Exhibit No. 120 if anyone so desires.

Chairman Aitchison: Does anyone desire to cross-examine Professor Bentley? (No response.) Apparently not. Call your next witness.

Mr. Davidson: Mr. Sundberg, please.

Chairman Aitchison: Raise your right hand and be sworn.

HARRY F. SUNDBERG was sworn and testified as follows:

Direct examination.

By Mr. Davidson:

Q. Will you give the reporter your full name, please, Mr. Sundberg?

A. Harry F. Sundberg.

Q. Your residence and occupation, please.

A. Cedar Rapids, Iowa. I am manager of the Chamber of Commerce Traffic Bureau at Cedar Rapids.

Q. How much experience have you had in traffic work?

[fol. 2427] A. I have had 43 years of traffic experience, 10 of it with various railroads and 33 with the present organization.

Q. Are you familiar with these proceedings, dockets 28300 and 28310?

A. Yes, I am.

Q. Have you had experience with cases, perhaps with not as wide a scope as this, but with territorial rates involved and interterritorial rates involved?

A. Yes. I have participated in many cases dating back 25 years, in which this class rate structure has been involved. I am proud to have been associated with such men as Clifford Thorne, Dwight Lewis, Judge Henderson, Walter McCormack and Mr. Wagner.

Q. For the record, for whom do you appear in this proceeding?

Chairman Aitchison: Is that not your state?

Mr. Davidson: Yes. I will say that he is speaking for interior Iowa.

Mr. Hughes: We cannot hear you, Mr. Davidson.

Mr. Davidson: Mr. Sundberg is appearing here speaking for what has been generally recognized as interior Iowa.

Chairman Aitchison: Proceed.

By Mr. Davidson:

Q. Will you state what that territory is for the record, Mr. Sundberg?

A. I am speaking on behalf of the interior Iowa cities because we have a situation where the eastern border of [fol. 2428] Iowa is in Official territory as to some of these rates and in Western Trunk Line territory as to others. Therefore I am not in a position to speak for the Mississippi River cities.

Mr. Davidson: We will have a witness who will, however.

By Mr. Davidson:

Q. Now, will you state what important railroads serve Iowa and where the terminals are?

A. Beginning at the north, we have the Milwaukee Railroad with terminals at Milwaukee and Chicago on the east end and at the Missouri River on the west end. I will go through these hurriedly. We have the Illinois Central with a terminal at Chicago on the east end and at Sioux City, Council Bluffs, and Omaha on the west end.

Chairman Aitchison: We will take judicial notice of the railroads and their locations.

Mr. Davidson: All right.

By Mr. Davidson:

Q. What is and what has been the relative rate level within Iowa in intrastate and interstate commerce?

A. The Iowa intrastate rates have always been related to the rates in adjoining states, particularly in Illinois; and therefore the state rates have never been on the so-called Western Trunk Line zone 1 basis. So far as intrastate traffic is concerned, the rate level has been comparable with what has been referred to here as the Central Freight Association scale.

Q. How is Iowa related to the western states?

[fol. 2429] A. As to the Western territory, we are in Western Trunk Line zone 1 on interstate traffic and we must pay the interstate zone 1 scale.

Q. Now, are you familiar with the general business of Iowa both manufacturing, retail, wholesale, agricultural and so forth?

A. I am.

Q. Will you state whether or not Iowa could confine its business of all these types to its own states and states west of the Missouri River?

A. No. It cannot confine its business to the states nor can it confine its business to the western states. We have developed manufacturing in interior Iowa whose trade is in the entire United States and a substantial export business. Therefore we are very much concerned about the interterritorial rates involved in this proceeding.

Q. And the Iowa-Illinois relationship also?

A. Yes.

Q. Is the Mississippi River a natural transportation boundary line or obstacle, or what is its function, if you know, in this rate structure?

A. The Mississippi River should have no bearing, in my opinion, in this case as a borderline. I started to define the railroads that operate through Iowa for the purpose of bringing out that there are no terminals along the Mis-[fol. 2430] sissippi River opposite Iowa. The only terminals that are along the Mississippi River are at the Twin Cities to the north and at St. Louis to the south and there is an expanse of over 500 miles without any railroad terminals. Yet the Mississippi River from Dubuque to St. Louis is arbitrarily used as a territorial line.

Q. Now, if the borders are necessary, and maybe they are, what do you have to say with regard to the interior or near cities to the Mississippi River? I have reference now to the bridge arbitrary formula.

A. I do not favor any territorial groupings for this class rate adjustment, but if there are to be any territorial boundaries set up, they might more properly be at the Missouri River. However, there are important cities near the Missouri River that should be accorded equitable rates.

Q. You are from Cedar Rapids, are you not?

A. Yes.

Q. You are familiar with the competitive shipping problems there, I assume?

A. I am.

Q. Is Cedar Rapids a representative Iowa city, would you say?

A. Yes. I would say it is.

Q. What is the effect of the inequalities with regard to the shippers in Cedar Rapids, if any exist?

A. Well, we have many transportation problems because [fol. 2431] we have developed manufacturing that must seek trade in the entire United States and particularly in the East where the heavy population exists. Now, for example, take machinery: We have five nationally known machinery manufacturers in Cedar Rapids who ship their products largely in carloads. Their competition is mainly in Illinois, Indiana, Ohio and Michigan, and some competition further east than that. Now, we have other manufacturers I could enumerate, which would make a long list here. For example, we have brass goods and hardware articles all of which have competition in this Eastern territory which has to be considered in the marketing of these products.

Q. Do you know whether or not the carriers have any difficulty in segregating Iowa from Illinois in the movement of traffic?

A. Yes. I think they do. I would like to call attention to the fact that the Illinois Freight Association tariff which names the rates within Illinois is made to apply through eastern Iowa as far west as Oelwein, Cedar Rapids and Ottumwa, then following the Wabash down to St. Louis. In other words, eastern Iowa, that part is considered very proper for operating purposes at the Illinois Freight Association rate level. I would just like to mention how that discriminates against us. For instance, take Dubuque to St. Louis: The first class rate is 98 cents for 318.4 miles, short line.

[fol. 2432] Chairman Aitchison: To where?

The Witness: To St. Louis, Dubuque to St. Louis. From Cedar Rapids to St. Louis, almost paralleling the service, the rate is $1.09 for a short line distance of 290 miles. In other words, we are penalized 11 cents per 100 pounds for being 28 miles closer. Now, that is entirely due to this arbitrarial territorial line set up at the Mississippi River. It has no foundation in rate-making that I can see, from more than 30 years of experience.

By Mr. Davidson:

Q. Is not the purpose of the arbitraries on many occasions defeated?

A. Yes.

Q. Could you explain that, or give us an illustration of that.

A. The Commission attempted in the former case to help eastern Iowa by setting up a scale of bridge arbitraries, but they are not related to either the eastern or western scales and therefore result in total rates which are all out of harmony with the competition that exists nearby.

Q. Are commodity rates involved?

A. The tariffs provide that the bridge arbitraries may be added to either class or commodity rates, but very often that is defeated because the carriers have set up a scheme of minimum rates based on classification ratings which remove the commodity rate from calculation and we have called their attention to the fact that the Commission said [fol. 2433] the minimum rate might be the applicable rate on the traffic, but they go outside and reach into the classification and take an artificial class rate to defeat the combination.

Q. Do the official lines make rates to and from Iowa?

A. That is the trouble. You see, the official lines do not publish rates either eastbound or westbound beyond the Mississippi River, yet we have traffic moving in competition with the rates that are in effect east of that borderline. Therefore when we calculate our rates, we first have to go to the classification to find out what the class rate is and then try to break it down by the best combination we can find; and when we are deprived of that bridge arbitrary in that calculation, it works a hardship on the interior Iowa shipper.

Q. What is the effect of the combination rates?

A. Well the combination rates, I think, ought to be out of the picture entirely. I have said this before: They are like an embolism or a blood clot in the stream of commerce.

Q. Is there anything further you want to add about that? Could you give an example of a bridge arbitrary on commodity rates?

A. Yes. I can give you an example.

Q. Please do so.

A. We have molding sand moving from the State of New York to Cedar Rapids for brass foundry purposes. The commodity rate from that New York point to Davenport [fol. 2434] is $4.73. We are compelled to add the full local rate from the Mississippi River to Cedar Rapids in order to get a through rate, a combination of two commodity factors. We are compelled to do this because the bridge arbitrary is defeated because the fixed class minimum rate is 50 cents per hundred pounds or $10 per ton and it is simply out of the picture. Although we have tried to get the Eastern Trunk lines to waive the class minimum on that traffic, they have denied that and we are still paying combination rates.

Q. It is not your position, is it, Mr. Sundberg, that increase should be made in Iowa and the Mississippi River states?

A. No.

Q. That is not your position at all?

A. We are not asking for any increase to the Mississippi River points, but merely pointing out that it is an unnatural and artificial boundary line.

Q. The competition, anyway, is east of there, is it not?

A. Yes, it is.

Q. Have you prepared an exhibit to illustrate how severe the present rate inequalities are?

A. Yes. I have prepared an exhibit.

Q. That has been distributed, has it not?

A. Yes.

Mr. Davidson: May we have this exhibit given a number, please, Mr. Chairman?

[fol. 2435] Chairman Aitchison: It may be marked for identification as Exhibit No. 121.

(Exhibit 121, Witness Sundberg, marked for identification.)

By Mr. Davidson:

Q. Your exhibit has been marked for identification as Exhibit No. 121, Mr. Sundberg.

A. Yes.

Q. I will ask you to make whatever explanation you think is necessary with regard to this Exhibit No. 121.

A. I believe the exhibit is self-explanatory. The purpose of it is to disabuse the minds of anyone that the interterrito-

rial class rates from the East to and from interior Iowa are about 125 per cent of the so-called official basic scale. I have undertaken to show here, for instance, on page 2, the rates from Chicago. The overhead rate is $1 which is 119 per cent of the Central Freight Association scale for that distance, but the purchasing power of that $1 rate in Official territory represents 146.1 per cent service. In other words, the purchasing power of our dollar is greatly diminished as compared to what it will buy in C. F. A. territory. Without going into detail, I might merely say that pages 2, 3, 4, 5 and 6 are like calculations, but using different origin points. Now, we feel that this is a pretty heavy burden to load onto a state that joins onto Official territory. It illustrates what we are complaining about, that our shippers cannot [fol. 2436] expand their trade area with such a handicap on them every day of the week.

Now, on page 7 is a chart to just graphically show what that situation is, using the Indianapolis first class rates. Briefly the chart shows that the rate we pay should purchase service from Indianapolis into Central Iowa as far as Des Moines, Iowa Falls, Mason City and so forth and in the reverse direction, the Cedar Rapids shipper in paying that rate should reach destinations as far as Dayton, Ohio, Toledo, Ohio, Cincinnati, Ohio, and Detroit, Michigan. Now, pages 8 and 9 show similar information and a similar situation, but using the rates from Southern territory, from and to Southern territory, and the same Iowa points. There we find, for instance, on page 8 that the Birmingham-Cedar Rapids rate of $2.17 is 140 per cent of the official scale but in purchasing power it is 171.2 per cent. If you will notice those percents in the right hand column, they are really staggering, and I think that bears out very strongly that there should be a removal of the rate barrier lines at the border points.

By Chairman Aitchison:

Q. With respect to page 9, are you able to find a haul of 1900 miles in Official territory?

A. I would not say there could be such a move. It merely shows what the result is.

Q. Well, could you find the smallest figure there, 1,450?

A. On page 8?

[fol. 2437] Q. On page 9.

A. Page 9?

Q. Yes.

A. No. There would be no distance from eastern Iowa; there probably would be from western Iowa to New England.

Q. That is *now* what your heading says. Your heading says, "Purchasing power within Official of interterritorial rate". I am asking if there is any haul within Official of 1,450 miles.

A. The scale is extended that far. I am not in a position to say that anything would move that far from Iowa.

Q. Iowa is not within Official, and your head says "Within Official".

A. Yes.

Q. Is there any 1,450 mile movement in Official territory?

A. I do not believe there would be, within the territory.

Q. Then what does this mean?

A. It is comparing the official rate that is prescribed for that distance with the rate we pay between Iowa and the southeast.

Q. If there is not any movement for 1,450 miles, then we might as well take the distance to the moon.

A. Well, I do not believe so. I think a mere comparison of a rate, distance for distance, does not tell the story. If we could go back, for a moment, to the Official territory com- [fol. 2438] parison, I believe I could illustrate how that works. We have a power shovel manufacturer at Cedar Rapids that has considerable trade in Central Freight Association territory. They must compete with a manufacturer at Milwaukee who gets more service for his dollar than we do, and therefore our trade area is diminished which is harmful to Cedar Rapids and to the State of Iowa.

Q. If you tried to ship 1,450 miles from Cedar Rapids, you would probably run out at the Atlantic Coast way before you reached 1,450 miles.

A. I suppose you would. I could have used points in Kentucky and confined the mileage within Official territory, and the results would have been very similar.

Q. In other words, there is a maximum mileage within Official territory which can be used?

A. That is right.

Q. And you have disregarded that?

A. I have followed the scale that is published.

Q. The scale does not apply to that distance, and that is like trying to find the square root of a minus quantity.

A. I do not know why the Commission allowed the lines to publish them for that distance, if there is no traffic to move, but they are in the tariff.

Q. We could not prevent it very well.

A. They are in your own reports, Mr. Chairman, for those [fol. 2439] distances.

Q. Well, does it mean anything or doesn't it?

A. I do not imagine there could be any such movement, according to my understanding of the mileage in Official territory. I do not think there would be any service on that length of haul, but the Commission published rates for those distances. That is, they prescribed rates for those distances.

Chairman Aitchison: Have you anything further, Mr. Davidson?

Mr. Davidson: One further question.

By Mr. Davidson:

Q. Is there any explanation you wish to make of Section 2 of this exhibit?

A. Section 2 can be very quickly explained. It is a reproduction of the 1939 census of manufactures as published by the Bureau of Census, Washington, D. C. The map, the first page, is merely to identify the counties that are used in the following pages. An analysis would show that the cities along the Mississippi River do not raise the average for the State of Iowa. The greater manufacturing density is at the interior points. I am not trying to belittle the Mississippi River cities when I say that, but merely to point out that the Mississippi River does not add to our showing. In former cases we were criticized because we included cities like Dubuque, Davenport, Clinton and Burlington in the Iowa showing because they are in Official territory, yet they [fol. 2440] are in Western Trunk Line territory on western traffic. Therefore we felt that we had a right to include them in our showing, but they do not bolster up the showing for the state as a whole. For instance, the eight counties along the Mississippi River from Dubuque south show a total manufacturing value of $128,837,625. Taking the eight interior counties where the cities are located as shown in the exhibit, the total manufacturing is $414,037,982, or more than three times the value of the eight counties along the river.

Q. Does that complete your explanation of the exhibit?

A. I believe that is all.

Q. Have you anything further that you want to state for the record, Mr. Sundberg, in connection with your testimony?

A. I would like to add this, that the rates from Iowa to Western territory are on a level too high for the good of the community, but our relationship with the cities in the Western territory is on a more favorable basis than our relationship with Eastern territory, even though the rate levels in the West are higher.

Mr. Davidson: That is all on direct, Mr. Chairman.

Chairman Aitchison: Do you offer your exhibit in evidence?

Mr. Davidson: I offer Exhibit No. 121 in evidence.

Chairman Aitchison: There being no objection, it is received.

[fol. 2441] (Exhibit 112, Witness Sundberg, received in evidence.)

Chairman Aitchison: Is there any cross-examination?

Mr. Plunkett: I have one or two questions.

Chairman Aitchison: Mr. Plunkett.

Cross-examination.

By Mr. Plunkett:

Q. Mr. Sundberg, will you turn to page 2 of your Exhibit No. 121.

A. Yes.

Q. I want to see if I understand correctly how you arrived at the purchasing power within Central Freight Association territory. Take the first example which is rates between Chicago and Cedar Rapids, Iowa.

A. Yes.

Q. As I understand it, the $1 is the going rate from Chicago to Cedar Rapids, is that right?

A. That is the rate in effect prior to Ex Parte 148.

Q. The distance is 219 miles?

A. That is the short line distance.

Q. The rate under the C. F. A. scale for 219 miles is 84 cents?

A. Yes.

Q. Is that correct?

A. Correct.

Q. The ratio of $1 to 84 cents is 119, is that right?

A. That is right.

[fol. 2442] Q. Now, in the next to the last column, 320 miles is the distance for which, under the C. F. A. scale, the rate is $1, is that right?

A. That is right.

Q. Then you have taken the ratio of 320 to 219 and arrived at 146, is that right?

A. That is correct.

Q. So 146 represents the rate of progression under the C. F. A. scale between 219 miles and 320 miles, is that right?

A. No. It represents the amount more of service that can be bought in C. F. A. territory for that dollar.

Q. It does represent the rate of progression between 219 miles and 320 miles under the C. F. A. scale then, does it not?

A. Yes.

Q. But the ratio of the rate of $1 to the rate of 84 cents, both for 219 miles, is 119?

A. That is correct.

Mr. Plunkett: That is all.

Chairman Aitchison: Are there any other questions of Mr. Sundberg? (No response.) Apparently not. You are excused.

(Witness excused.)

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: We will suspend until 2 o'clock.

(At 12:30 P. M. recess taken to 2:00 P. M.)

[fol. 2443] Afternoon Session

The hearing was resumed pursuant to recess.

2 o'clock P. M.

Chairman Aitchison: Shall we proceed.

Mr. Davidson: Mr. Cummins.

GEORGE M. CUMMINS was sworn and testified as follows:

Direct examination.

By Mr. Davidson:

Q. Mr. Cummins, will you please give your name, your place of residence, and your occupation, for the record.

A. My name is George M. Cummins. My residence is Davenport, Iowa. I am traffic commissioner for the Davenport Traffic Bureau, Chamber of Commerce of Davenport, Iowa.

Q. How long have you been engaged in traffic work?

A. For approximately 36 years.

Q. Have you had any other employment in traffic work, other than that with the Traffic Bureau of the Davenport Chamber of Commerce?

A. Yes, sir, I have. For 12 years prior to my employment with the Davenport Traffic Bureau I was engaged in traffic and accounting work with various railroads.

Q. For approximately the last 24 years, then, you have been engaged as you are at the present time?

A. Yes, sir.

[fol. 2444] Q. Now, Mr. Cummins, have you had prepared, or have you yourself prepared, an exhibit to be presented in this proceeding?

A. Yes, sir.

Mr. Davidson: If the Commission please, may we have Mr. Cummins' exhibit identified at this time.

Chairman Aitchison: I want to compliment the witness on having his name put on the cover page of the exhibit.

The Witness: Thank you, sir.

(Exhibit 122, Witness Cummins, marked for identification.)

By Mr. Davidson:

Q. Mr. Cummins, I will ask you now to proceed to give such explanation as you feel may be necessary for a thorough understand of your Exhibit No. 122 for identification.

A. First, may I state that I appear here on behalf of the Davenport Traffic Bureau, and the Upper Mississippi River Cities Association. The Upper Mississippi River Cities Association is a voluntary organization embracing the cities of Dubuque, Iowa; Clinton Iowa; Bettendorf-Davenport,

Iowa; Rock Island, Illinois; Moline, Illinois; East Moline, Illinois; Muscatine, Iowa; Fort Madison, Iowa; Burlington, Iowa, and Keokuk, Iowa. All of those cities are located either on the west bank or the east bank of the Mississippi River; those in Iowa, on the west bank of the Mississippi River; and those in Illinois on the east bank of the river. In connection with the named cities in Illinois, they, [fol. 2445] together with Bettendorf and Davenport, Iowa, constitute what is known as the Tri-Cities; and I would like to give for the record now a few facts in connection with the geographical and operating situation relative to the Tri-Cities.

Q. Proceed.

A. The cities on the Illinois side of the river, embracing Rock Island, Moline and East Moline—and there are also some smaller communities over there, such as Silvis, Milan, and Carbon Cliff—are in what is known as the Tri-Cities area. The Rock Island Railway, for example, has its breakup yard at Silvis, Illinois, and in so far as that railway is concerned, the Tri-Cities, both on the Illinois side and on the Iowa side of the Mississippi River, are treated as one operating terminal. Trains are broken at Silvis, and the distribution or picking up of the cars is performed in switching service. With respect to the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, the breakup yard of that line for the Tri-Cities, is in Davenport, that yard being known as their Nahant yard. At that point practically all of the cars are broken out of the through trains, or put into through trains, for the entire Tri-Cities area, and likewise handled in switching service. The Commission has recognized the Tri-Cities as one industrial or commercial area, in the Western Trunk Line Class Rate Case, reported in 164 ICC 1, in that case grouping the Tri-Cities as one area for ratemaking pur- [fol. 2446] poses. In various other cases, such as Bituminous Coal Rates in the State of Illinois, again the Commission found the Tri-Cities to be one industrial area. Therefore in considering Davenport, for example, or Bettendorf, Iowa, we must not forget that they are a part of the same industrial area, known as the Tri-Cities, and we should also include the Illinois cities, on the Illinois side of the river, as well. Now very briefly, my Exhibit 122 for identification, consisting of four pages, shows traffic densities, that is, the ton miles of revenue freight per mile

of road, for the various class-1 railroads serving the State of Illinois, broken down first as to individual railroads; secondly, as to the State of Illinois; and thirdly, as to the entire line. I have shown totals and averages for Eastern lines, Western lines and Southern lines. The years 1941, 1940 and 1939 are put into the record to show the situation within the last three years; and on the fourth page, for the year 1927, in so far as the figures for the State of Illinois are concerned, they are the figures that I submitted in the Eastern Class Rate Investigation, Docket No. 15879. The purpose of breaking down the traffic densities in the manner in which I have, first, by separating the State of Illinois from the entire line, and then by assembling the figures for the Eastern lines, Western lines and Southern lines, was because, in the Eastern Class Rate Investigation just referred to, the tentative report of the Commission [fol. 2447] held that the northern section of Illinois, north of the Illinois River and the line of the Atchison, Topeka & Santa Fe Railway from Chicago to Joliet, Illinois, should be plussed by the Appendix-F arbitraries, which were approximately 10 per cent higher than the C. F. A. scale—or rather, which resulted in rates which were approximately 10 per cent higher than the basic C. F. A. scale. The figures shown on page 4 of the exhibit were submitted to the Commission at the hearing after the tentative report was issued, and resulted in eliminating any arbitraries for the northern section of Illinois. The northern section of Illinois is served by the Western railroads generally,—that is, north and west of the Illinois River; and south of the Illinois River, by the Eastern lines; and my exhibit shows that the condition that existed in 1927, still continues to exist today, namely, that the traffic density, judged by ton miles per mile of road, for the Western railroads serving the northern section of Illinois, is in excess, and considerably in excess, of the traffic density, tested by similar units, for the Eastern railroads serving the southern section of Illinois; and that the traffic density of the Western railroads in northern Illinois is very close to the average of the Eastern railroads for their entire system,—those railroads serving Illinois.

Q. Have you anything further, Mr. Cummins?

A. I believe that is all.

[fol. 2448] Q. Might I ask you this further question, please. Are you prepared to say whether or not most of

the traffic in northern Illinois is bridge traffic, so called,—that is, traffic that is going further west than the boundary of Illinois?

A. Well, I have no specific figures at hand, with respect to that, but from my general knowledge of the situation I can say that there is a large portion of that traffic that would originate or terminate in northern Illinois territory, destined to or coming from points west of Illinois, or beyond Illinois; and in addition, there is a large volume of what might be termed or considered as overhead traffic, which neither terminates nor originates in the State of Illinois.

Mr. Davidson: At this time, if the Commission please, I offer Witness Cummins' Exhibit No. 122 for identification, in evidence.

Chairman Aitchison: Without objection, it is received.

(Exhibit 122, Witness Cummins, received in evidence.)

Mr. Davidson: I tender Mr. Cummins for cross-examination at this time.

Chairman Aitchison: Cross-examine.

Cross-examination.

By Mr. J. R. Bell:

Q. Mr. Cummins, I notice in your Exhibit 122 you give as authority the annual reports of the carriers to the Illinois Commerce Commission.

[fol. 2449] A. Yes.

Q. Does the Illinois Commerce Commission prescribe some basis, or formula, upon which it requires the railroads in the State of Illinois to report ton miles of revenue freight and ton miles per mile of road?

A. I am not familiar with it, if they do.

Q. The reason I ask you that question, Mr. Cummins, is that I am familiar with certain arbitrary requirements, as I might call them, of certain western states, respecting the reporting of the proportion of revenue that would be assigned to those states.

A. Well, I am familiar with that, yes, sir, but revenue has not been included in any of my figures.

Q. I understand, and that leads me to inquire of you what the requirement is, with respect to that formula, if you know.

Chairman Aitchison: Well, Mr. Bell, can we not shorten it,—unless you just want to show the witness up. Are you now asking him about something that you yourself know?

Mr. Bell: No, Mr. Chairman; I do not know. Does anybody know?

The Witness: It is my understanding—pardon me.

Mr. Bell: I am not trying to show the witness up. I merely wanted the record to show, if he was able to answer the question. I am not trying to show him up.

Chairman Aitchison: Well, why not ask him what infor-[fol. 2450] tion he has, derived from an actual study of individual movements.

Mr. Bell: Can anybody answer the question? (No response.) Apparently not.

The Witness: I think that what you have reference to, Mr. Bell, is the apportionment of revenues, and perhaps certain costs. There is a certain formula, yes, sir.

By Mr. Bell:

Q. Let me ask you this question, please, Mr. Cummins: Do you know whether or not the Illinois railroads actually keep any such statistics as ton miles of revenue freight, or ton miles per mile of road, separated as to the State of Illinois?

A. I do not know, sir.

Q. Now there is another notation there, where you have certain asterisks, or stars, and below, it says "Average."

A. Yes.

Q. Is that a simple average, adding up the column ahead of the starred number, and then dividing by the number of items in the column?

A. No, sir. That is a weighted average.

Mr. Bell: That is all.

Chairman Aitchison: Are there any further questions? (No response.) You are excused, Mr. Cummins.

(Witness excused.)

Mr. Davidson: Mr. Smith.

[fol. 2451] C. R. SMITH was sworn and testified as follows:

Direct examination.

By Mr. Davidson:

Q. Mr. Smith, will you please state for the record your full name, your residence and occupation.

A. My name is C. R. Smith. My residence is Waterloo, Iowa. I am manager of the Waterloo and Cedar Falls Traffic Association.

Q. How long have you held that position?

A. For the past six years.

Q. Prior to that time in what business were you engaged?

A. Prior to that time I was assistant manager of the Chamber of Commerce Traffic Bureau of Cedar Rapids, Iowa.

Q. How long have you been engaged altogether in traffic work?

A. 31 years.

Q. Mr. Smith, have you prepared or caused to be prepared an exhibit for presentation in this proceeding?

A. Yes, sir.

Mr. Davidson: At this time, if the Commission please, may we have Mr. Smith's exhibit marked as No. 123 for identification.

(Exhibit 123, Witness Smith, marked for identification.)

By Mr. Davidson:

Q. Mr. Smith, have you also prepared a brief written statement explaining your Exhibit 123 for identification?

[fol. 2452] A. Yes, sir.

Q. That has been distributed, has it?

A. It has.

Q. Do you desire to make any statement for their record, other than what is contained in your written statement?

A. No, sir.

Mr. Davidson: For the purpose of brevity, if the Commission please, at this time I will offer Mr. Smith's Exhibit 123 in evidence, together with the written statement accompanying the same, which has been distributed, requesting that the statement be copied into the record, if that is agreeable.

Chairman Aitchison: Is there any objection to the written statement of Mr. Smith being copied into the record? (No response.) Without objection, that will be done.

(The statement is as follows:)

The Waterloo and Cedar Falls Traffic Association is a non-profiting organization which was organized in 1936. The membership is composed of jobbers, manufacturers and retailers, they believe they are entitled to a level of class rates comparable with Official Classification Territory.

Waterloo and Cedar Falls, Iowa, are located in Black Hawk County, Waterloo is the county seat and has a population as of 1940 of 58,579 and Cedar Falls population 9,349. The Federal census figures of the Waterloo defined city limits are 51,743. The Chamber of Commerce figures for greater Waterloo for the year of 1941 are 60,696. These [fol. 2453] figures include unincorporated villages which border Waterloo, Iowa. My Exhibit No. 123 on pages 2 to 7, inclusive, shows the industrial manufacturers of Black Hawk County which includes industries located at Cedar Falls, Dunkerton, Gilbertville, Hudson, La Porte City, and Waterloo, Iowa. This exhibit shows that Black Hawk County is industrial and leads all other counties in Iowa, based on industrial payrolls, number of employees, value of the product according to the most recent tabulation made by the United States Department of Commerce. Waterloo, Iowa, exceeds all other cities in Iowa in manufacturing diversified commodities.

Manufacturing located in Black Hawk County provide additional transportation due to the fact that raw material is purchased in Eastern territory and the finished product shipped back into that territory. It is necessary for Black Hawk County industries to meet competition located in Eastern territory. Pages 11 to 15 inclusive of my Exhibit No. 123 show a partial list of industries located in both Waterloo and Cedar Falls, the principal articles manufactured, the normal number of employees and the kind of raw materials received and where from, and where the finished product is shipped to, by states or territory shipped to and where their principal competitor is located with respect to destination, state and territory.

[fol. 2454] Pages 8 to 10, inclusive, shows statistics of Waterloo, Iowa, which includes the population trends of

Waterloo from 1890 to 1940, inclusive, with the percentage of increase. The population figures for 1890 to 1930 are the Federal census, the 1940 population figures are actual population figures for greater Waterloo, Iowa, according to the listing shown in the City Directory of Waterloo.

The industrial figures shown on page 8 and statistics shown on page 9 and 10 depicting public utility users, financial resources, city improvements, transportation, shipping facilities, building permits, valuation of Waterloo, and Educational Facilities are statistics for year 1940.

The statistics show that Waterloo has made some strides in industrial growth, population, city improvement, industrial and home buildings. Waterloo and Black Hawk County are entitled to a level of rates on class rate traffic, comparable with Official Classification territory, Waterloo and Cedar Falls are only 93.3 and 99 miles respectively from and to the western boundary of Official Classification territory.

The level of class rates between the Official Classification territory and Iowa does not permit Iowa industries to purchase interterritorially for the same money the miles of transportation their competitors in Official Classification buy. The present level of first class rates between Waterloo and Cedar Falls on the one hand, and Indianapolis, [fol. 2455] Indiana, on the other hand not including the Ex Parte 148 increases, provides overhead rates of $1.35 and combination based 96 cents to Davenport; 37 cents beyond or $1.01 to Dubuque, 32 cents beyond. These factors to and from the Mississippi River are published in compliance with findings 22, 204, I. C. C. 595. The mileage between Indianapolis and Waterloo, Iowa, is 415 miles as shown on page 691 of the Sixth Supplementary Report 17,000, Part 2. The first class rate $1.33 between Indianapolis, Indiana, and Waterloo, Iowa, in Official Classification territory purchases 580 miles transportation which is equivalent to the distance from Indianapolis, Indiana, to Omaha, Nebraska; or from Waterloo to Ripley, Ohio.

We therefore believe that the interterritorial class rates between Iowa and Official territory should not exceed those within Official territory, and that between the south and Iowa, the class rate level should not exceed that which may be prescribed between the South and Official territory.

By Chairman Aitchison:

Q. Mr. Smith, what you are trying to show here is the situation of the manufacturers of Cedar Falls and Waterloo.

A. Yes.

Q. And the source of their competition.

A. Yes, sir.

Q. Drawing what inference?

[fol. 2456] A. Pardon, your Honor?

Q. And from that, then, I say, you draw what inference?

A. The purpose is to show that our manufacturers have competition to meet, and to show where the raw materials are produced; also to show where they ship their finished products, and where the competition is located.

Mr. Davidson: I think the last paragraph of your statement, Mr. Smith, answers the question of the Chairman,—does it not?

The Witness: Yes, sir.

Mr. Davidson: Mr. Smith is now tendered for cross-examination, your Honor.

Chairman Aitchison: Cross-examine. (No response.) You are excused.

Mr. Davidson: I have offered the exhibit in evidence, your Honor. May the record show that it is received?

Chairman Aitchison: Without objection, Exhibit 123 is received.

(Exhibit 123, Witness Smith, received in evidence.)

(Witness excused.)

Mr. Davidson: If the Commission please, I may have one other witness whom I will request to put on later. For the present, however, that concludes our presentation.

Chairman Aitchison: With the reservation just made, [fol. 2457] then, that concludes, as I understand it, the Iowa presentation. We will turn now to Minnesota.

Mr. Radke: If the Chairman please, Mr. Bitney and I are here for the Minnesota Commission. Mr. Bitney is ready to proceed.

Chairman Aitchison: Come forward, please.

L. R. BITNEY was sworn and testified as follows:

Chairman Aitchison: Do you have counsel representing you?

The Witness: No, Mr. Chairman.

Chairman Aitchison: Then you may just proceed in your own way, first stating your name, place of residence and occupation.

The Witness: My name is L. R. Bitney. I am statistician for the Minnesota Railroad & Warehouse Commission, which position I have occupied since 1923. For eight years prior to that time I was statistician for the Board of Railroad Commissioners of the State of South Dakota.

Mr. Plunkett: If the Commission please, I shall be very glad to shorten the matter by waiving Mr. Bitney's qualifications, having known him for many years.

Chairman Aitchison: I think that is sufficient. You may proceed with your main statement, then, Mr. Bitney,

The Witness: Preliminary to an explanation of the statis- [fol. 2458] tical tables appearing in the six pages of my exhibit——

Chairman Aitchison: Just a moment, Mr. Bitney. We have no exhibit.

The Witness: It was presented at Indianapolis.

Chairman Aitchison: I am very sorry, but if you want us to follow it, you will have to produce some copies.

The Witness: Very well, your Honor. I have some additional copies here.

Chairman Aitchison: Thank you. We have them before us now, and you may proceed.

The Witness: May the exhibit be marked at this time, if you please, Mr. Chairman, with the next number in order.

Chairman Aitchison: 124.

(Exhibit 124, Witness Bitney, marked for identification.)

Chairman Aitchison: Proceed.

The Witness: I desire first to call attention to the fact that, inclusive of passenger service and less than carload deficits, including a 4 per cent return, the level of the cost scales developed by Dr. Edwards and presented in his exhibit No. 3 for all lines situated in Western Trunk Line territory, is approximately 3 per cent higher than is the general level of rates in the entire Eastern district,—that is, the entire Eastern district exclusive of New England

and northern Illinois. Now, in this proceeding, it is our contention, as it was in I. C. C. Docket No. 17,000, part 2, [fol. 2459] that the operating costs and the rates of return earned by the railroads operating in Minnesota, and other states in the eastern section of Western Trunk Line territory, are more than 3 per cent less than is the general average for the entire Western Trunk Line territory; and also that, if confined to those states, the average level of service costs would be less than in the Eastern district. The six pages of my Exhibit 124 for identification have been designed to show the more favorable operating costs in the State of Minnesota, and in the four states of Minnesota, Iowa, Wisconsin and Missouri. Turning first to page 1 of the exhibit: Page 1 is a statement showing the operating revenues, operating expenses, and net railway operating income derived from freight and allied service operations, by eight Northwestern region carriers for the calendar years 1926, 1939, 1940 and 1941. I have set forth the results for the year 1926 for the reason that the average operating revenues of these Northwestern carriers in 1926 were within one per cent of the average for the eight-year period for 1922 to 1929. Under the Minnesota gross income tax law, 100 per cent of the revenue derived from intrastate traffic, that is, the transportation of intrastate traffic, is assigned directly to the state; and the revenue derived from interstate traffic is prorated to the state upon a mileage prorate basis. On the other hand, all of the expenses incurred in the maintenance and operation of terminals situated in the State of [fol. 2460] Minnesota, are allocated to the state; and the fact that the main terminals of the Great Northern, Minneapolis & St. Louis, Soo Line and Northern Pacific lines are situated in the State of Minnesota, makes it evident that in so far as terminal costs are concerned, the amount so assigned is adequate. Attention is also directed to the figures appearing in the bottom section of the page, showing Minnesota to entire system percentage ratios. For the total mileage operated by the eight systems referred to in 1941, 17.5 per cent were situated in Minnesota, whereas the Minnesota revenue was 21 per cent of the system revenue; expenses 19.9 per cent; and net railway operating income 23.9 per cent. Now, a calculation shows that on a per mile of road basis, the average net income of the eight carriers for Minnesota is 36 per cent higher than is the average for

the remainder of the eight systems situated outside the State of Minnesota.

Referring next to page 2 of the exhibit: A recheck of the returns shown on this page of the exhibit discloses a typographical error, which I wish, with the permission of the Commission, to correct at this time, in line 26, column 4, for the year 1940. The average haul in miles there shown is 171.69, which is in error. The same should read 179.69. The statistics appearing on page 2 of the exhibit deal with the same Western Trunk Line carriers that are included on page 1 and sets forth the freight and allied service ex- [fol. 2461] penses, the number of revenue ton miles, and average expenses per revenue ton mile for entire system operations, and operation in the State of Minnesota. Taken as a whole, the decidedly more favorable operating condition in the State of Minnesota are evidenced by the results shown for the year 1941, and similar information shown for the other years. For the eight carriers, the entire system average haul, as set forth in line 29, is 255 miles, compared with an average haul of only 127 miles on the lines situated in Minnesota. On the other hand, the average freight service expense per revenue ton mile, as set forth in column 13, is .6740 for the system, and .648 for Minnesota—that is, cents. In other words, the average expense per revenue ton mile is 26 mills less than is the entire system average—that is, the average expense per revenue ton mile for Minnesota—regardless of the fact that the average haul is only 127 miles, for 50 per cent of the system.

Turning next to page 3 of the exhibit: The returns on this page show the ratemaking values, net railway operating income, and rates of return for 13 Northwestern region railroads, all or a portion of which are lines situated, in whole or in part, in Minnesota. The returns set forth on this page of the exhibit are separated so as to show results from all service operations, and from freight and allied service operations, for the calendar years 1939, 1940 and 1941.

Referring next to page 4 of the exhibit: The purpose of [fol. 2462] the returns set forth on page 4 is to show the more favorable operating conditions on the lines situated in the states of Minnesota, Wisconsin and Iowa, than those which prevail on the lines comprising the balance of the eight Northwestern region railway systems named in the caption. Of the 50,325 miles of road operated by the eight carriers in 1941, 18,912 miles, or 38 per cent, were situated

in the three states named, and approximately 17,000 miles, or 34 per cent, in the other six states comprising Western Trunk Line territory. The more favorable transportation conditions, and operating results came from operations, of the eight systems within the three states, as contrasted with the entire system operations, are indicated by the ratios of the three states to the entire system which appear in columns 8, 9 and 10. For example, for 1941 the ratio set forth in column 10 shows that the mileage situated in the three states was 37.58 per cent of the total system mileage, whereas the net railway operating income derived from operations in the three states was 46.62 per cent; the revenue tons originated was 46.51 per cent; and the number of tons terminated was 48.99 per cent,—the latter figure indicating the greater volume of terminal services rendered within the three states as contrasted with the system as a whole. The tons originated per mile of road were 23.77 per cent greater than the entire system average, and the tons terminated were 30.35 per cent greater than was the entire system aver- [fol. 2463] age. Now, while the factors which are cited there are not as satisfactory and conclusive as are cost service scales, such as those presented by Dr. Edwards, nevertheless, they are sufficient to indicate beyond any question of doubt that operating conditions and service costs in the three states are materially more favorable than are the operating conditions and service costs on the lines situated in the other states in Western Trunk Line territory.

Turning now to the next page, page 5, of the exhibit——

By Chairman Aitchison:

Q. Just a moment, please, Mr. Bitney, before you leave that. Do I correctly understand that a comparison is being made here simply of operations throughout the remainder of Western Trunk Line territory?

A. No, Mr. Chairman. The comparison is made with operations for the entire system, on page 4.

Q. That is what I thought.

A. Yes.

Chairman Aitchison: I think you rather misspoke yourself in the answer you made just a moment ago. Will you

go back, please, Mr. Reporter, and read the latter portion of Mr. Bitney's previous answer.

(The record was read.)

By Chairman Aitchison:

Q. Do you want those words "in Western Trunk Line territory" to remain in there?

A. Why, I would say, Mr. Chairman, in Western Trunk [fol. 2464] Line territory, and for the balance of the system, for the reason that, as to three of these railroads, a large proportion of their mileage situated outside of Western Trunk Line territory, is located out in the mountainous regions where the service costs are approximately double what the service costs are in Minnesota.

Chairman Aitchison: Continue.

The Witness: Page 5 of the exhibit shows the average number of miles operated, and the freight passenger traffic density, for each state, situated in whole or in part in Western Trunk Line territory; also the total for all states in the Western District. To show the difference in traffic density and revenue in the different portions of Western Trunk Line territory, and in Southwestern territory, I have segregated the states into four groups. Group-1 includes the State of Illinois only; group-2, the states of Minnesota, Iowa, Wisconsin and Missouri, comprising the eastern portion of Western Trunk Line territory; group-3, the five states comprising the western part of Western Trunk Line territory; and group-4 includes the four states situated in Southwestern territory. The revenue ton miles and freight revenue per mile of line are shown in the last two columns.

As there set forth, it will be noted that the revenue ton miles and the freight revenue per mile of line from Minnesota, are substantially greater than is the average for any [fol. 2465] state in Western Trunk Line territory. Compared with group-2 in which Minnesota is included, the revenue ton miles and freight revenue per mile of road exceed those for group-3 and group-4 by the following percentages,—which I should say have been calculated, and are not shown on the exhibit —: Compared with the average for the five Western Trunk Line states in group-3, the increase in revenue ton miles is 38 per cent, and the increase in freight revenue per miles of road is 80 per cent. Compared with the four Southwestern territory states in group-

4, the increase, or the difference, is 35 per cent and 31 per cent respectively.

Turning now to page 6, which is the last page of the exhibit: The returns on page 6 show the rate base values, the net railway operating income, and rates of return on total system values separately for freight and allied service operations, and for all service operations, for the calendar years 1939 and 1940, for class-1 railroads operating in each of the individual regions in the Western and Eastern districts; and for the operation of the ten railroads in the State of Minnesota. Before proceeding further, if you please, Mr. Chairman, I would like to ask leave to make a correction in the figures appearing in columns 10 and 11, in line 16, which, as they are there stated, represent the value of the railroads in question. The amount now set forth in column 10 reads 355,651, and should read 352,698. [fol. 2466] The amount of 64,559 in column 11, should read 62,319. Through inadvertence, the figures included in this line were the values as of the year 1941, instead of 1940. As the result of the changes just cited, the rates of return appearing in line 21 should be corrected as follows: 8.24 should read 8.30; 19.34 should read 20.04; and the rates of return in line 24 should be changed from 6.26 to 6.31, and from 18.20 to 18.86. The rate base valuations appearing in line 1 are based upon the original cost less depreciation, plus present value of land and rights, and working capital, as of January 1, 1940, and were taken from Exhibit No. 11 in Ex Parte No. 148. These figures were prepared by the Bureau of Valuation of the Interstate Commerce Commission, and presented in that hearing at record page 334, volume 2. Rate base values and rates of return are shown for each of the three regions in the Western and Eastern districts, and for the eight carriers operating in the State of Minnesota. From freight and allied service operations, the net railway operating income and rates of return earned in 1939 are shown in lines 5 and 6. As there set forth, you will note that the rate of return earned by all lines in the Northwestern region was 4.53 per cent, compared to the rate of return of 4.36 per cent for all lines in the Great Lakes region of the Eastern district, and 4.69 per cent for all lines in the Eastern district. From the operations of the eight lines in Minnesota, the rate of return was 7.19 [fol. 2467] per cent, and for the two iron ore lines the rate of return was 12.74 per cent. Note that corresponding per-

centages showing rates of return from passenger and freight services combined, or all service operations, are also shown, and a comparison of the various rates of return on that basis shows a condition not as favorable as for freight service operations only; the reason for that being that the loss from passenger service operations of those eight carriers was substantially greater than was the passenger service deficit for the lines Eastern territory.

This page of the exhibit also shows the average freight service expense per revenue ton mile for 1939 and 1940, in lines 13 and 28. Note that the average expense for all lines in the Northwestern region is less than the average expense for all lines in the Central Western and Southwestern regions of the Western district; whereas the average haul is substantially less. The most significant point that I wish to stress in regard to these ton-mile expense comparisons is the low average expense for the eight lines, from operations in Minnesota, appearing in column 10. Note that for an average haul of only 126 miles, the 1939 average expenses shown in line 13 is 7.42 mills, and that for an identical haul, the average for the New England region is 12.36 mills; and for an average haul of 168 miles, the average expense for the lines in the Great Lakes region is 8.04 mills. At the time this exhibit was prepared, we [fol. 2468] did not have available the reports and statistics of the Interstate Commerce Commission for the 1941 operations. Therefore I have prepared a statement bringing forth the same returns as are shown on page 6 of my Exhibit 124, for the year 1941; and if agreeable to the Commission, I would like to include this latter statement as page 7 of my Exhibit 124.

Chairman Aitchison: No. To avoid difficulty, we had better mark that as your Exhibit 125.

The Witness: Very well.

(Exhibit 125, Witness Bitney, marked for identification.)

The Witness: My Exhibit 125 for identification is a statement setting forth the information just described in connection with page 6 of my Exhibit 124. I would just like to call your attention to the rates of return earned in the Northwestern region as contrasted with the rates of return earned in the Eastern district. For all of the roads in the Northwestern region, which by the way include five roads

that are either in the hands of receivers or in process of being taken out of the hands of receivers, it is 7.26 per cent from freight service operations as contrasted with 6.26 per cent for the Great Lakes region of the Eastern district; 6.81 per cent for the Central Eastern region; and 6.77 per cent for all regions in the Eastern district. On the other hand, from operations in Minnesota, the rate of return of the eight railroads was 9.52 per cent, and [fol. 2469] for the two Iron Range railroads, 23.33 per cent. It will also be noted that the average expense per revenue ton mile is most favorable in the Northwestern region, of any of the regions shown in the exhibit, except for the operation of the eight systems in the State of Minnesota.

That completes my explanation of Exhibits 124 and 125, Mr. Chairman, and I now offer them in evidence.

Chairman Aitchison: Is there objection?

Mr. J. R. Bell: Yes, there is an objection, your Honor. May I ask a few questions of the witness, preliminary to stating a specific objection, with respect to the values shown on page 3 of his Exhibit 124 for identification?

Chairman Aitchison: Yes.

The Witness: I am ready for cross-examination, anyway.

Cross-examination.

By Mr. Bell:

Q. Mr. Bitney, have you had any valuation experience?

A. Yes, sir, I have had, I would say, a considerable amount of valuation experience over a period of twenty years.

Q. Will you look at page 3 of your Exhibit 124 for identification, please. Do you have that before you?

A. Yes.

Q. You refer there to Exhibit No. 11, submitted in Ex Parte 148. What was that Exhibit 11; what did it show?

[fol. 2470] A. The exhibit referred to was an exhibit which showed the reproduction cost new of the railroads,—the reproduction cost new, less depreciation; the original cost; the present-day value of land and rights; and working capital.

Q. As of what time?

A. Of January 1, 1940, or December 31, 1939.

Q. As of what time?

(Answer read.)

The Witness: It showed the value, based upon original cost, less depreciation.

By Mr. Bell:

Q. Original cost, less depreciation?

A. Yes, sir, that is right. As I explained, the exhibit shows original cost as determined by the Commission. The amount of depreciation deducted therefrom was the ratio which the depreciated original cost bore to the original cost.

Q. So that, then, the figure which you have set up here is the final valuation upon which you base your computation; is that correct?

Chairman Aitchison: Just a moment. Will your read that preceding answer, please.

(Answer read.)

The Witness: I might say, I made the deduction, and not the Commission.

By Mr. Bell:

Q. That is not shown on the exhibit, is it?

Chairman Aitchison: If I may, please.

[fol. 2471] Mr. Bell: Pardon me.

By Chairman Aitchison:

Q. You mean, do you not, Mr. Bitney, the ratio of depreciated reproduction cost, and not original cost?

A. Did I say "original cost"?

Q. Yes.

A. Pardon me. I misspoke. What I meant to say was that the ratio of the depreciated reproduction cost to reproduction cost, was the ratio which I applied to the original cost, in order to depreciate the original cost.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: Now on the record. Continue.

By Mr. Bell:

Q. The percentage of depreciation deducted from cost of reproduction new, you have applied to original cost,

and that is your original cost less depreciation. Is that correct?

A. Yes.

Q. These figures which you have set up here as the final valuation, on which you have figured your return, are the original cost figures which you took out of Exhibit 11, in Ex Parte 148, as of January 1, 1940, or December 31, 1939. Is that correct?

A. Yes, sir.

Q. Reduced by that amount of depreciation.

[fol. 2472] A. Yes, sir.

Q. Then you have added to that the present value of land and rights as of December 31, 1939, as shown in Exhibit 11, have you?

A. Yes, sir.

Q. What did you do with the working capital?

A. The working capital also.

Q. How?

A. I added the working capital also.

Q. Now you purport here to show the rate of return for the calendar years 1939, 1940 and 1941.

A. Yes, sir.

Q. How did you arrive at the figures for 1940 and 1941?

A. By adding the net additions made by the company in 1940, less accruals in the depreciation reserve for equipment. For 1941, we used the same value as we determined for 1940.

Q. Did you say "as we determined"?

A. Yes.

Q. Whom do you mean by "we"?

A. I mean, in the manner that I have described. Statistics were not available, to show the amount of property additions for the year 1941.

Q. And you have added nothing for going concern?

A. No.

Q. You have given no consideration whatever to current [fol. 2473] cost of reproduction, less depreciation, have you?

A. No, sir.

Q. Or current cost of reproduction?

A. No.

Q. As of any time?

A. No, sir.

Q. And you have given no consideration to any change in land values as of these various years, have you?

A. Well, if I had, there would have been a reduction.

Q. Well, I say, have you given any consideration to that?

A. No, sir.

Mr. Bell: If the Commission please, the witness has not shown himself to be qualified to value these railroads; he has not shown himself to be sufficiently familiar with the properties to make page 3 of his Exhibit 124, competent; and the methods used by him are entirely incorrect. I therefore object to page 3 of his Exhibit 124, on those grounds, as incompetent, irrelevant and immaterial.

By Chairman Aitchison:

Q. Mr. Bitney, were the original cost figures which you took reported by our Bureau of Valuation?

A. Yes, sir.

Q. Are you familiar with the fact that they reflect a going property?

A. They naturally would, yes, sir.

[fol. 2474] Chairman Aitchison: Without passing upon the ultimate weight to be given it, certainly it is some support for the consideration of these figures; and the objection will be overruled.

By Chairman Aitchison:

Q. Why did you not make a deduction of depreciation before December 31, 1939?

A. Pardon me?

Q. Why did you not deduct accrued depreciation before December 31, 1939, inasmuch as you took that item under consideration thereafter?

A. Well, the reason for not doing that, Mr. Chairman—I had not thought of it, but the accrued depreciation which the Commission found, applied to all classes of property, and of course the accrual in the depreciation reserve at this time is for equipment only.

Q. Are you sure about that?

A. (Continuing.) It so happens that there was no increase in depreciation reserve, and no added amount was deducted for depreciation. The amount deducted was an insignificant sum, so far as that is concerned.

Q. Well, if you would apply to original cost, which is a determined fact, a figure derived by a consideration of cost of reproduction new, less depreciation, you would automatically wipe out all of the investment which is represented by depreciation, during construction, would you not?

[fol. 2475] A. I do not just follow you there.

Chairman Aitchison: Read the question.

(Question read.)

A. Well, that would depend, Mr. Chairman, upon how the Commission determined accrued depreciation and reproduction cost new. I have simply taken the ratio which the Commission has determined, and assumed that, whatever the percentages might be, 10 per cent, 15 per cent or 20 per cent, if they found that percentage represented the accruals as of a given date, to be applied to reproduction cost new, a like percentage should apply to original cost.

By Chairman Aitchison:

Q. Well, do you disassociate the condition per cent from working reproduction?

A. No, I don't think so.

Q. Well, take a new property, which is put into operation as of today. It has taken five years to construct. By the inspection method, certain of that property, which cost 100 per cent, has been automatically depreciated by taking out the proportion of the total life which is represented by the five years. That is true, is it not?

A. Yes.

Q. In other words, then, you never can have a balance, from the first day the railroad goes into operation, between value and cost, can you?

A. Do you mean value, or reproduction cost——

[fol. 2476] Q. No.

A. —reproduction cost depreciated, compared to value?

Q. No, no. I am talking about value on the basis which you have used in your exhibit here.

A. If there is no change, at the date the valuation is made, over the prices lawfully prevailing during the period during which the property was being constructed, the result would be exactly the same, and the same percentage should apply, in my opinion, whether you use reproduction cost, or original cost.

Q. Well, I do not agre with you. Now, take the case of a new property. There are certain items in it which were constructed four years ago.

A. Yes.

Q. They necessarily were built that far in advance of the property being opened for operation. Now, when you come to make your engineering estimate on the cost of reproduction basis, if you do it as of the date the property goes into operation, you find that four years of elapsed life have gone; and if it has a twenty-year life, then it has an 80 per cent condition; that is correct, is it not?

A. Yes, sir.

Q. Although it cost 100 per cent.

A. Yes, naturally.

Q. The investment was 100 per cent, but 20 per cent has [fol. 2477] never been recouped.

A. Yes.

Q. And under your system here, which you have used in this exhibit, you write the 100 per cent down to 80 per cent.

A. In that particular instance, yes.

Q. To the extent of the depreciable property which is involved in a plant then existing, applying to the original cost an estimate of the elapsed service life automatically wipes out, without possibility of recoupment, except through dividends, all depreciation accrued during the period of construction, does it not?

A. If I follow you correctly, Mr. Chairman, that would be true where depreciation was computed on a service life basis, instead of an inspection basis,—yes, sir.

Q. Well, is that not the basis which the Commission has stated time and time again, was used?

A. Yes.

Chairman Aitchison: Is there anything further?

Mr. Plunkett: Yes, your Honor.

By Mr. Plunkett:

Q. Mr. Bitney, will you turn to page 1 of your Exhibit No. 124, please.

A. Yes, sir.

Q. What did you include in Total Operating Expenses, which is the heading for the four columns in the center of the page?

A. Total expenses include all operating expenses, taxes [fol. 2478] and rentals,—in other words, everything.

Q. That is, the freight proportion——

A. Yes.

Q. —of operating expenses, taxes and rents?

A. Yes, sir.

Q. How did you determine the freight proportion of the expenses?

A. Pardon me?

Q. Or rather, I mean, of the taxes?

A. As I believe you know, we have required the railroad companies in making their reports to the Commission since 1922, to make a complete separation of all of those items of expense. Where a company failed to make an apportionment of taxes, the amount of state taxes was allocated 100 per cent.

Q. To what?

A. To the state—or to service in the state. Federal income taxes were apportioned on the basis of net income. That is the way we apportioned them, when they were apportioned in our office.

Q. Is that the way in which you apportioned them, between freight service and passenger service?

A. Well, the apportionment between freight and passenger service is done by the companies making the reports.

Q. How do they do it? Do you specify how it shall be done?

A. No, sir, I don't believe we do.

[fol. 2479] Q. Do you require them to apportion their taxes, income taxes, between freight and passenger service?

A. Well, of course, they are required, in the report, to make a complete separation of taxes and rentals. My recollection just offhand here, without being able to refresh my memory at this time, is that we submitted to all of the carriers what is known as the Rock Island formula, which seems to be a very complete formula for the separation of expenses between freight and passenger service, and told each railroad company to use that formula unless it had a different formula which it preferred to use, instead.

Q. Well, did that formula go into the separation of income tax between freight and passenger service?

A. Oh, yes.

Q. It did?

A. Yes, sir. That is required in the reports, the annual reports to the state commission, on the forms that are prepared and furnished by the Interstate Commerce Commission.

Q. Now, Mr. Bitney, you call attention to the relatively large net railway operating income in Minnesota, as compared with the entire systems of the eight railroads to which you referred.

A. Yes.

Q. The largest net railway operating income shown is that of the Great Northern, is it not?

[fol. 2480] A. Yes, sir.

Q. Is it not a fact that that was due very largely to the iron ore traffic of the Great Northern Railway?

A. Oh, iron ore constitutes a substantial proportion of the traffic, because it is a substantial proportion of the traffic handled.

Q. How is that again, please?

A. I say, iron ore constitutes a substantial proportion of the traffic, because the iron ore traffic is a substantial proportion of all of the traffic handled.

Q. And the iron ore traffic is almost 100 per. cent in Minnesota, is it not?

A. Practically, yes.

Q. And it is handled over lines of railways that are devoted almost exclusively to the handling of iron ore traffic; that is true, is it not?

A. Oh, I would not say "exclusively", no.

Q. I say, almost exclusively.

Q. Yes, sir. They also haul grain over the same lines, of course.

Q. Do they haul any grain between Hibbing and Kelly Lake?

A. No, sir, I believe not. There are some portions of the Mesaba division over which practically the entire movement is iron ore, I would say.

Q. Yes.

[fol. 2481] A. But on the other hand there are other branches of the line over which grain does move.

Q. But those portions that are devoted almost exclusively to the handling of iron ore traffic, would not handle any class rate traffic to speak of, would they?

A. Very little.

Q. Very little, if any.

A. Right.

Q. Now will you turn, please, Mr. Bitney, to page 2 of your Exhibit 124.

A. Yes, sir.

Q. And referring to line 15, column 13,—do you have that before you?

A. Yes.

Q. The average freight service expenses per revenue ton mile for the Great Northern Railway are shown as .522.

A. Yes, sir.

Q. And in line 19, the total for the eight lines dealt with is 6.48. Is that right?

A. Yes.

Q. Now is it not true that the 6.48 figure, which is the total for the eight lines, is lower than any one of the lines, except the Great Northern Railway?

A. Yes, sir, that is the lowest.

Q. And the average was brought down by the low average [fol. 2482] of the Great Northern, was it not?

A. Yes.

Q. That again reflects the iron ore traffic, does it not?

A. Yes, sir; the iron ore, together, of course, with the grain and other traffic handled, results in a greater traffic density and lower cost on the Great Northern than on the other lines, many of the other lines being merely branch lines, extending a few miles.

Q. Is the Northern Pacific in Minnesota a branch line?

A. How?

Mr. Plunkett: Read the question, please.

(Question read.)

A. No; I didn't say that the Northern Pacific was.

By Mr. Plunkett:

Q. Well, then, is the Milwaukee a branch line in Minnesota?

A. No.

Q. Is the Minneapolis & St. Louis?

A. Yes, sir, I would consider the line that is operating in Minnesota, a branch line.

Chairman Aitchison: Louder.

A. I say, I would consider the lines that are operated in Minnesota by the Chicago Great Western, the Chicago, St. Paul, Minneapolis & Omaha, and the Minneapolis & St. Louis as—well, I do not know as you would classify them as branch lines, perhaps, but they are lines, I would say, that [fol. 2483] carry very little traffic.

By Mr. Plunkett:

Q. The main line of the Omaha Railway, from the Twin Cities westbound, runs through Minnesota, does it not?

A. Yes, sir, that is correct, but then, that is not a very heavy traffic carrying line.

Q. But it is not a branch line, is it?

A. Oh, no, sir, I would hardly say that it is a branch line. I perhaps did not use quite the proper language with respect to that, in my former answer.

Q. Now, will you turn to page 3 of the exhibit, please. The lower half of that page deals with freight service only; am I right?

A. Yes, sir.

Q. How did you apportion the ratemaking value between freight and passenger services?

A. Well, I did not make any apportionment of the value here. These rates of return are based upon the total value of the entire system in each instance.

Q. I see. The last three lines on that page deal with the return from all services, and not merely from freight service; is that correct?

A. No, sir,—or rather, I mean to say, yes, sir. They are the rates of return from all service operation—or rather, they are the net railway operating income from all service [fol. 2484] operations, and the rates of return on the entire system value. In the upper section, the net railway operating income is the net from freight service operation, and the percentage of return is on the entire system valuation.

Q. In the upper half of that page of the exhibit you show the rate of return on system value that was earned from all services; is that correct?

A. Yes, sir.

Q. And in the lower half of the page, you show the rate of return on the system value that was earned in freight service only; that is right, is it not?

A. Yes, sir.

Q. And the return from freight service is greater than that from all services, because of the passenger deficit; that is true, is it not?

A. Yes, sir.

Q. Now is the average haul in Minnesota affected by the iron ore traffic?

A. Oh, it naturally would be, yes, sir, because the iron ore traffic is a large volume.

Q. Is it a very shorthaul traffic?

A. I think that the Great Northern Railway average haul is 112 miles on iron ore, if I remember correctly, while the average haul for all traffic is 126 miles.

Q. So that when you compare the average haul in Min-
[fol. 2485] nesota with the system average haul, you are giving effect to these short hauls on iron ore in Minnesota, are you not?

A. Well, only in so far as the returns for the Great Northern Railway are concerned. Average hauls are also computed on the same basis for the other railroads.

Q. If the Great Northern Railway had 25 million tons of iron ore last year, that would have quite an effect upon the average of the eight lines which you have taken, including the branch lines that you spoke of, would it not?

A. Oh, naturally, the average haul—or rather, the haul for iron ore is less than the average for all other traffic, and on account of the volume being greater, it would have a tendency to reduce the average for all lines; but the average haul for all lines is also shown in this exhibit, for each company.

Q. Now on page 4, in line No. 3, you refer to Total Operating Expenses. Do you mean, operating expenses there, or do you mean, operating expenses, rents and taxes?

A. That should read "Total Expenses."

Q. And should include operating expenses, taxes and rentals?

A. Yes, sir.

Q. Now, in column 8, line 16, you show that the average number of tons of freight originated per mile of road in Minnesota was 115 per cent of the sytem; is that correct,—or rather, for Minnesota and Iowa, that is, was 115 per
[fol. 2486] cent of the system.

A. Where is that?

Q. Pardon me. Column 6, line 10, that is.

A. Revenue tons originated?

Q. Yes.

A. Yes, sir.

Q. In 1940 that went up to 123.41.

A. Yes, sir.

Q. Would that be affected by the iron ore traffic that was originated in the State of Minnesota?

A. Yes, sir; on account of the increased number of tons of iron ore handled, and the iron ore haul, which I am assuming is less than that of all other traffic, it would be affected to that extent.

Q. As a matter of fact, all of your statements, where you compare Minnesota with other states, show the effect of the iron ore traffic on the Great Northern Railway, and also the D. M. & I. R., do they not?

A. No, sir. The latter is not included in this group of eight carriers. I have excluded the Iron Range roads.

Q. Turn to page 5.

A. Well, on that particular page, I do show figures for all of the companies, that is true.

Q. Yes.

A. But on the other pages of the exhibit, the returns are [fol. 2487] only for the eight Northwestern railroads, excluding the two iron ore roads.

Q. But on page 5 you do include the D. M. & I. R.?

A. Oh, yes.

Q. Now, on page 6 of your exhibit why did you include the D. W. & P.? In column 11, you have included the D. W. & P. with the D. M. & I. R.

A. That was included there for the reason that it is one of the railroads that operates up there, in the northern part of Minnesota, in the Iron Ore region.

Q. But it does not handle any iron ore, though, does it, Mr. Bitney?

A. Oh, it does not handle iron ore to any great extent, I would say, no, sir. By the way, in further answer to your question of a moment ago, about the effect of the iron ore upon average haul, traffic density, and so forth, I might call your attention to the fact that the coal transported in Illinois, and the sand, gravel and other mineral products transported by other lines, have an effect upon the average haul in other states; and, as a matter of fact, taken as a whole, the number of tons of mine products transported on these eight lines, in proportion to the total, is not equal to the

proportion that is handled on the lines in the Eastern district; that is, products of mines, to the total.

Q. In addition to the Great Northern, and the Missabe [fol. 2488] Railroad, what other lines in Minnesota handle iron ore?

A. Oh, some of the other lines handle a little iron ore traffic, but not——

Q. Does not the Northern Pacific Railway handle a substantial amount of iron ore traffic?

A. The Northern Pacific, the Soo Line, and the Chicago and North Western,—their operations, of course, are in Wisconsin, but they likewise handle a little iron ore. But my point is this, that there is always so much being said about the transportation of iron ore, and its effect upon traffic density, and so forth, when we are talking about Minnesota; but when we are talking about other traffic density situations, in other sections of the country, especially in the Eastern district, no mention is made of the fact that a far greater proportion of their traffic consists of products of mines, and heavy steel products, that are transported at a very low cost.

Q. Are not the Pocahontas lines kept separate, for that reason?

A. Well, the Pocahontas lines, of course, are not the only lines that carry a large proportion of coal and iron products.

Mr. Plunkett: That is all.

Chairman Aitchison: Is there any further cross examination of Mr. Bitney? (No response.)

The Witness: Does the record show, Mr. Chairman, that [fol. 2489] my two exhibits are received? I offered them, I believe.

Chairman Aitchison: They have been received.

(Exhibits 124 and 125, Witness Bitney, received in evidence.)

Chairman Aitchison: You are excused.

The Witness: Thank you, sir.

(Witness excused.)

O. A. RADKE was sworn and testified as follows:

The Witness: My name is O. A. Radke. My office address is Room 401 State Office Building, St. Paul, Minnesota. I am in charge of the Rate Division of the Minnesota Railroad Commission, and have been so employed for six years. All told, I have had approximately 27 years' experience——

Mr. Olson: If the Commission please, I will admit the qualifications of the witness to testify with respect to traffic matters.

The Witness: Thank you.

Chairman Aitchison: Very well.

The Witness: My testimony will relate principally to rate and classification matters. The interest, or the position, of the State of Minnesota in this proceeding is substantially similar to that of Wisconsin, Iowa and Missouri. I have prepared an exhibit for submission in this case, distribution of which was made at Indianapolis, and I now desire to offer [fol. 2490] the same for identification.

(Exhibit 126, Witness Radke, marked for identification.)

The Witness: In the 17,000-Part 3 rate adjustment, the State of Minnesota was placed in two different rate zones, namely, zone 1 and zone 2, the dividing line starting at Duluth on Lake Superior, and following the line of the Northern Pacific Railway to Hinckley; thence the Great Northern to the Twin Cities, and the Omaha Railway through Mankato to the southwestern corner of the State of Minnesota. Page 1 of my Exhibit 126 for identification is a list of the railroads operating in the State of Minnesota, indicating the number of main roadway miles owned and operated in Minnesota as of June 1, 1942. The exhibit also indicates the number of miles operated in zone 1 and zone 2 territory; and in connection therewith I desire to call your attention to the fact that the financially sound roads, or those having adequate earnings, are those having the greater mileage in the higher rated zone. The Minnesota Commission, in authorizing only one scale of rates for intrastate application, took cognizance of that fact and also the provision of the Minnesota law which prohibits the establishment of dual or unequal rates, except when, in its judgment, it is necessary to harmonize state and interstate rates. One such situation would come about in the rates on grain into the primary market, where, if the intrastate rates were held at a lower

level, the bidders on the grain would bid down the price [fol. 2491] to protect themselves on freight bills which were recorded for transit, to obtain the outbound proportional rates. Page 2 of the exhibit is a comparison of the present and Witness Jensen's suggested scales in Eastern territory and Western Trunk Line zones 1 and 2; also the present intrastate scales. The present less than carload and less than truckload scale apply throughout the entire State of Minnesota by all of the railroads and motor carriers, is the zone 1 scale prescribed by this Commission in 17,000-Part 3. [fol. 2492] The scale was prescribed by the Minnesota Commission for motor carriers in February, 1938, after which the railroads sought and obtained authority to apply the same scale of rates for intrastate application.

Chairman Aitchison: Now, that is, you say, a truckload rate or a less than truckload rate?

The Witness: Both.

Chairman Aitchison: I cannot hear you. That last part was quite important, and I missed it.

The Witness: Less than truckload and less than carload, Mr. Chairman.

Chairman Aitchison: How about truckload and carload? Have you attempted to equalize them?

The Witness: No, sir. We did not. I will cover that in just a moment.

Chairman Aitchison: All right.

The Witness: The railroads also published the same scale, less than carload, for interstate application between points in Minnesota and border points in the states of Wisconsin, North Dakota and South Dakota. The carriers did not seek nor were they authorized to apply the Ex Parte 123 increases on the less than carload class rates, nor were the motor carriers permitted to apply the increases at that time, nor were they subsequently authorized to add an increase.

The railroad class rates are governed by the Western [fol. 2493] Classification and the Western ratings in the National Motor Freight Classification are used by the motor carriers. Practically all of the exception ratings maintained by the railroads in Western Trunk Line territory are observed by the railroads and the motor carriers have met those exception ratings. The Minnesota Commission has not prescribed nor authorized for general application truckload rates, but did prescribe scales of volume rates which

reflect 80 per cent of the normal first four classes and applicable on shipments subject to a minimum weight of 6,000 pounds. The rail carriers sought and obtained authority to apply the same volume scale on shipments subject to a minimum weight of 10,000 pounds, but shortly thereafter sought and obtained authority to reduce the minimum to 6,000 pounds. Pick-up and delivery services are afforded by both forms of transportation on class and volume rates, or allowances are made to the shippers or receivers of freight when they perform hteir own dray service. I was somewhat surprised at the testimony of Mr. Fyfe by which he discouraged the prescription of less than carload rates graduated according to the weight of the shipment, and proposed instead that the Commission prescribe the same minimum for motor carriers as is maintained by the railroads for carload shipments. The railroads in Minnesota have been before the Minnesota Commission repeatedly and discouraged the prescription of full truckload rates for [fol. 2494] motor carriers. We have in Minnesota approximately 2,300 contract and irregular route common carriers and 54 common carriers.

Com. Alldredge: 54 regular route common carriers?

The Witness: I beg your pardon?

Chairman Aitchison: 54 regular route common carriers, he said.

The Witness: Regular route common carriers, yes, certificated carriers.

Chairman Aitchison: You have irregular route common carriers also, do you not?

The Witness: No. The irregular route common carriers are included with the contract carriers. They come under a section of the law with respect to which provisions are identical.

Chairman Aitchison: Are they not common carriers, some of them?

The Witness: No, sir.

Chairman Aitchison: A common carrier in Minnesota must operate over a fixed route?

The Witness: Yes, and we have only 54 of those.

Chairman Aitchison: Proceed.

The Witness: Of the 2,300 contract and irregular route carriers I just mentioned, approximately 1,700 operate exclusively intrastate and 600 are domiciled in adjoining [fol. 2495] states.

Chairman Aitchison: Those are all contract carriers, are they?

The Witness: Yes, sir.

Chairman Aitchison: What did you do for them, prescribe the minimum rate or the precise rate?

The Witness: We prescribed minimum rates. The rates I just called attention to are minimum rates for contract and irregular route carriers and for the common carriers or certificated carriers, they are specific rates the same as for the rail carriers. Approximately 2,000 of the 2,300 contract or irregular route carriers transport livestock into the South St. Paul livestock market and practically all haul return loads of groceries, farm machinery, binder twine, salt, feed, and so forth.

Chairman Aitchison: For whom?

The Witness: For merchants and farmers out in the state of Minnesota and in the adjoining states.

Chairman Aitchison: But you do not call them common carriers?

The Witness: No, sir. During the calendar year 1940 there were 195,910 truckloads of livestock delivered at South St. Paul which, incidentally, represented 75 per cent of all receipts. Approximately 65 per cent of the contract and irregular route carriers' revenue is obtained from the trans- [fol. 2496] portation of livestock and 35 per cent of the revenue is obtained from the transportation of the commodities I just mentioned and possibly household goods. This would indicate that the bull haulers by no means confine their operations to the transportation of livestock. With an average of approximately 650 to 700 motor carriers, and it reaches as high as 1,800 some days, operating from the Twin Cities metropolitan area, the necessity of a uniform class or volume rate scale is obvious. To permit these motor carriers to transport carload freight outbound from the Twin Cities certainly would be harmful to the railroads.

Chairman Aitchison: Are you speaking of the 54 carriers now?

The Witness: I am speaking of the 2,300.

Chairman Aitchison: 2,300?

The Witness: Yes, of which I mentioned 2,000 transport livestock into the South St. Paul market which is contiguous to the Twin Cities area. Should we permit those operators, give them full truckload rates, I would feel sorry for the railroads. You would have the same condition you have in

the transportation of livestock, where those carriers are today, possibly not today, but in normal times did transport 75 per cent or better.

By Com. Alldredge:

Q. How do you control their service? How do you keep them from hauling what you would call carload quantities? [fol. 2497] Is it by limitation in the operating authority or by the rate system you have?

A. Well, the Minnesota laws provide that the Commission has the power to conserve the highways, and they are doing it by not prescribing full truckload rates, or rates comparable with the railroad full carload rates.

Q. You mean by that you do not prescribe a lower scale of rates for truckload quantities——

A. That is right.

Q. —than you have prescribed for less than truckload?

A. That is right. We only have the less than truckload scale or that subject to a minimum of 6,000 pounds, which is 80 per cent of the prevailing class, first four classes.

Q. Is it a less than truckload scale or an any-quantity scale above 6,000 pounds?

A. When you get above 6,000 pounds and apply 80 per cent of your class rates, your charges become exorbitant and the shipper is not going to take advantage of that service unless he needs it promptly. He is going to go to the full carload rate, and take advantage of shipping carloads.

Chairman Aitchison: How do you police the collection of these charges as minimum? Do they file copies of their waybills or tariffs?

The Witness: Yes.

Chairman Aitchison: Or contracts?

[fol. 2498] The Witness: We have prescribed the rates. The Commission has made up the tariff. We have a master tariff, a master copy of that tariff in the office and we have a concurrence form, and as these operators come in to obtain their permits to operate we have them sign a concurrence form to this master tariff on file with the Commission and give the motor operator a copy. We have ten inspectors out throughout the state who stop these trucks on the highways. We call in their freight bills from time to time to see that they are observing these charges as minimum charges.

Chairman Aitchison: Do they always do it?

The Witness: We make about 200 or 300 arrests a year.
Com. Alldredge: Did you say "a day" or "a year"?
The Witness: A year. We make them toe the mark there.

By Com. Alldredge:

Q. Does the Commission itself publish the tariff?
A. Yes. We did make a charge for it prior to last year, but found we did not have a provision in the law to do that, and will have the law corrected in this next session so we can cover the cost of the publication. We have found that is necessary. We did at one time permit them to make up their own tariffs, but we found they attempted to publish rates on envelopes, pieces of toilet paper, and so forth.

Chairman Aitchison: Proceed.
The Witness: Page 3 of my exhibit indicates the scale [fol. 2499] applicable on class traffic within the states named as compared with the scales prescribed by your Commission in Western Trunk Line zones 1 and 2 and the Eastern territory. It will be noted that the present scales in the states of Iowa, Missouri, Minnesota and Wisconsin compare favorably with that of the Eastern territory. Page 4 of the exhibit indicates that the present Iowa scale is 108 per cent of the Eastern scale, Minnesota 110 per cent, Missouri 96, and Wisconsin, 103. I might add that about 2 years ago it was determined from the motor carriers' records who maintain the same exception ratings that are maintained by the railroads, that the application of the exception ratings tended to reduce the gross revenues of those carriers by 7 per cent.
Chairman Aitchison: That is, of the motor carriers?
The Witness: Yes, sir.
Chairman Aitchison: Did you put them in, then?
The Witness: They have gone in from time to time as the railroads have put them in. We attempted to discourage it, but they put them in in interstate commerce, and they crept in, in intrastate. Pages 5 and 6 are a chronological history of the class rates between Chicago and the Twin Cities and St. Louis and the Twin Cities. In connection with page 5 I want to call your attention to the fact that the rates there shown opposite March 28, 1938, today are used mainly on carload shipments. The railroads have established a first [fol. 2500] class rate of $1.16 for application between Chicago and the Twin Cities, which applies only on less than carload traffic or on volume traffic subject to minimum rates

of five, ten and sixteen thousand pounds. I do not call attention to the lower classes as I find that there are 31 different bases of rates applying to the Twin Cities and approximately 100 pounds in the Zone 1 territory.

Page 7 of the exhibit indicates that while a first class rate of $1.16 is maintained from Chicago to the Twin Cities, a fourth class rate of 72 cents is maintained which is 62 per cent of the first class rate. Taking another point, Eyota, Minnesota, which also carries a first class rate of $1.16, there is provided a fourth class rate of 64 cents or 55 per cent of first class. Taking these 31 different bases to the Zone 1 territory, all carrying a first class rate of $1.16, I find that under Column 50 the rates range all the way from 50 to 60 per cent, and under Column 45 all the way from 45 to 54 per cent, or a spread of 11 cents in the fourth class rate.

Chairman Aitchison: What is the explanation of that?

The Witness: I cannot give it to you, Mr. Chairman.

Chairman Aitchison: Haven't you had any contact with it?

The witness: None. I did not discover it until I made up these exhibits.

[fol. 2501] Chairman Aitchison: Are they in violation of our order?

The Witness: No. I believe that the carriers received authority to depart from the Fourth Section.

Chairman Aitchison: No. I mean with respect to these percentage relations.

The Witness: Oh, certainly. They are in violation of the order. The percentage relation to first class is not being maintained. I might state that under Column 90 there is a spread of 1 cent, Column 78, 5 cents, Column 75, 1 cent, Column 72, 4 cents, Column 65, 8 cents, Column 63, 6 cents, Column 60, 8 cents, Column 57, 6 cents, Column 52, 10 cents —I have already mentioned Column 50 and 45 being 11 cents—Column 40, 10 cents, Column 37½, 9 cents, and no spread in the Column 27½ rate. I do not understand why we have not heard a blast from Mr. Townsend, but he has not probably been tipped off that the situation exists.

Chairman Aitchison: He has reserved four hours.

The Witness: Perhaps we will hear from him at that time. I also want to call attention to the fact that the tariff providing for these less than carload class rates applying from Chicago, Milwaukee, and Peoria, published in L. E. Kipp's I.C.C. A-3328, also provides for 2,838 exception ratings.

Page 8 of the exhibit is a section of the Minnesota laws [fol. 2502] prohibiting the establishment or authorization of dual or unequal rates. Page 9 of the exhibit is a map prepared by Mr. Bee of Oklahoma. I was authorized to reproduce it. I have checked it and found it to be correct and adopt it as my own. It indicates the scales suggested by Mr. Jensen. Mr. Jensen suggests the continuance of the 110 per cent or Zone 1 territory for the southeastern part of Minnesota and 110 per cent of the C.F.A. scale for the western part of Minnesota. Mr. Jensen also suggests that the Western Classification should govern the rates in Zone 2 territory and the Official Classification in Zone 1 territory. I feel that a requirement of that kind would simply add more confusion to the present condition. We have a large grocery distributing house at Mankato, in Southern Minnesota, which would be directly on the line. When shipping 100 miles east of Mankato, they would be required to observe the Zone 1 scale subject to the Official Classification, and when shipping 100 miles west, Zone 2 subject to the Western Classification. At the present time all rates between Central Freight Association, Trunk Line and New England territories on the one hand and the Twin Cities on the other are governed by the Official Classification. The same is true of the rates from and to Duluth. Between some eastern territories on the one hand and points in Minnesota on the other, other than Duluth or the Twin Cities, eastbound rates are [fol. 2503] governed by the Official Classification and westbound rates are governed by the Western Classification.

I propose that the Commission extend the 100 per cent C.F.A. territory to include the state of Minnesota; that the Official Classification be prescribed as the governing classification; that the carriers be required to cancel all exception ratings and transfer those ratings to the classification; that less than carload rates be graduated according to the weight of the shipment, possibly for minimums of five, ten and sixteen thousand pounds as are presently maintained by the carriers between Chicago, Milwaukee and Peoria on the one hand and points in Minnesota and adjoining states on the other; that the proposed classes be reduced to from 20 to 40. We have in Minnesota at the present time about 40, and the number in effect between Chicago and the points named and points in Minnesota number 19.

Chairman Aitchison: I think you misspoke yourself there, did you not?

The Witness: No.

Chairman Aitchison: You mean, reduced from 40 and 20 down to what?

The Witness: No. I said that the proposed classes should be reduced to from 20 to 40.

Chairman: I see.

The Witness: 20 would give us blocks of 5 per cent jumps, [fol. 2504] and 40, 2.5 per cent.

Chairman Aitchison: I see.

The Witness: At the present time we have many where the spread is only one-half of 1 per cent, and throughout a scale of 600 miles you arrive at the same rate no matter whether you apply 85 or 85.5 per cent.

Com. Alldredge: May I ask you a question right there.

By Com. Alldredge:

Q. What would you do with rates on less than carload shipments or less than truckload shipments of less than 5,000 pounds?

A. They would take the normal full class rates.

Q. Would you start with a base scale and make something less for 5,000 pounds and something less still for 7,500 pounds?

A. No. I would not recommend that, Mr. Commissioner.

Q. I understood you to say that you advocate less than carload rates beginning with something like a minimum of 5,000 pounds, based upon quantity gradations beginning with a minimum of something like 5,000 pounds?

A. Yes, sir. That is what I suggested.

Q. What would you do for rates if a man shipped less than 5,000 pounds?

A. The alternative application clauses that are usually provided in all of these tariffs would provide that if a charge resulting from a shipment weighing 4,200 or 4,300 pounds was lower than obtained by applying the full class rate, [fol. 2505] that the lower charge would govern.

Q. Suppose he shipped 250 pounds.

A. The full class rate would be applied.

Q. Subject to a minimum weight of 5,000 pounds?

A. No, sir. The class rate basis would apply up to the fade-out point.

Q. You would have to begin with a base rate for the smaller quantity, making a discount, if you want to term it that, for greater quantities; is that the way you would do it?

A. Yes, sir.

Q. That is what I wanted to understand.

A. At the present time the $1.16 rate I called attention to applying from Chicago to the Twin Cities—when the shipment weighs 5,000 pounds, the first class rate under that scale is $1.10. When the shipment weighs 10,000 pounds, the first class rate is reduced to $1.04. When a shipment weighs 16,000 pounds, the first class rate is reduced to 99 cents.

Q. Give me the rate for a 300-pound shipment.

A. 300 pounds, $1.16. You would pay the full $1.16.

Q. $1.16?

A. $1.16 per hundred pounds, or $3.48.

By Chairman Aitchison:

Q. Do you have a provision in your classification intrastate that the minimum for a less than a carload shipment should be 100 pounds, second class, or something like that? [fol. 2506] A. No, sir. We have the same minimum that is provided for in the classification.

Q. What is that?

A. The class governs if the charge—well, any class will govern. As an example, the first class rate between the Twin Cities and Duluth today is 85 cents. If you had a 10-pound shipment rated first class, the minimum would be 85 cents, but in no case is the minimum less than 58 cents. That is with the Ex Parte 148 increase added. We have the same minimum in Minnesota that prevails throughout — entire Western Trunk Line territory.

Q. Am I wrong that the classification carries a provision as to the minimum charge being 100 pounds or second class or something of that sort?

A. I do not know of any such rule, Mr. Chairman.

By Com. Alldredge:

Q. It has an absolute minimum, does it not?

A. I did not understand your question.

Q. It has an absolute minimum?

A. It has an absolute minimum of 58 cents, yes. That prevails throughout the entire Western Trunk Line territory.

By Chairman Aitchison:

Q. How is that built up? Is it 50 cents, plus 10 per cent increase, plus 3 per cent increase?

A. It was originally 45, then by the increase it went to 50 and then by the 10 per cent increase to 55, and now with the [fol. 2507] 6 per cent increase it is 58. I would have no objection to that being increased to 75 cents. In fact, we have permitted some of our motor carriers operating single line, to assess it and in practically all cases the transportation is over two or more carriers.

Com. Alldredge: I just wanted to find out how you made your quantity scales, or how you propose to do it.

By Com. Alldredge:

Q. You would start with a base scale and then discount that scale with increased quantities, is that right?

A. That is right.

Q. Now, what would you think about starting with a base scale, say, for shipments of 500 pounds or more——

A. No.

Com. Alldredge: Pardon me. You did not let me finish.

The Witness: I beg your pardon, Mr. Commissioner. I am sorry.

By Com. Alldredge:

Q. What would you think about starting with a base scale for shipments of 500 pounds or more and discounting it as your quantities increase above 500 pounds and then as the quantity decreases below 500 pounds, increasing the base scale?

A. I fear that your carriers in a short time would suffer. Your pick-up and delivery costs are too high to permit any reduced scale on those small shipments.

[fol. 2508] Com. Alldredge: No. I was just stating it the other way. I was talking about increasing it. Instead of starting with a base scale for shipments from 100 pounds up and then discounting that scale for increased quantities, start it, say at 500 pounds, discounting as you go up the scale of weights, and then increasing it as you come down below 500 pounds.

The Witness: Your steps there of increase or reduction would be too close together.

By Com. Alldredge:

Q. Would you not have better harmony between the freight scales and express scales than you would otherwise have?

A. I do not know whether you could apply the express scale or not.

Q. Is it not a fact that the express scale frequently on some shipments is lower than the freight scale?

A. That is true.

Chairman Aitchison: I wonder if this scale you had in mind would not drive the business to the freight forwarders?

The Witness: I think the freight forwarders are getting about all that they are going to get now. I doubt it, Mr. Chairman.

Chairman Aitchison: Does your scale at the present time have a tendency to drive the smaller quantities of business [fol. 2509] to the freight forwarders? I am talking about your Minnesota scale.

The Witness: No, sir.

Chairman Aitchison: You do not think so?

The Witness: No, sir.

By Com. Alldredge:

Q. Did I understand you to say that intrastate you do not observe the zones effective on interstate traffic?

A. That is right. We do not.

Q. You have a common level of intrastate rates?

A. Yes.

Q. All over the state of Minnesota?

A. Yes. We use the scale that the Commission prescribed for the eastern part of Minnesota.

Q. And then apply that all over the whole state?

A. Yes. That is for less than carload traffic. For carload traffic the Commission prescribed the same scale but permitted the Ex Parte 123 increases and also the Ex Parte 148 increases. The less than carload scale does not reflect the Ex Parte 123 increases.

By Com. Splawn:

Q. Your interests in Minnesota have the same class rates that C.F.A. territory has?

A. Yes.

Q. You would not apply the existing class rates in Central Freight Association territory by specifying how many classes?

[fol. 2510] A. I would like to leave that to the Commission's determination. 20 would be O. K. 40 would be O. K.

Chairman Aitchison: We only have seven now have we not?

The Witness: Officially. We really have not got anything, Mr. Chairman. As I called attention to, with all of the different bases and columns we have between Chicago and the Twin Cities, you don't know where you're at.

By Com. Alldredge:

Q. If you had 20, you would have one class 5 per cent of first class, would you not?

A. You would not have to go that low. I doubt whether it would be necessary to go below 10 per cent.

Q. How about stopping at 15?

A. It all depends on how far the Commission is going to go in throwing low grade commodities into the class rate scale. If they are going to put in sand and gravel, you would probably have to go down quite low.

Chairman Aitchison: Do you have anything further, Mr. Radke?

The Witness: That is all I have.

Chairman Aitchison: Do you want to offer your exhibit in evidence?

The Witness: I offer Exhibit No. 126 in evidence.

Chairman Aitchison: Without objection, it is received.

(Exhibit No. 126, Witness Radke, received in evidence.)

[fol. 2511] Chairman Aitchison: Is there any cross-examination?

Mr. Olson: One or two questions.

Chairman Aitchison: Mr. Olson.

Cross-examination.

By Mr. Olson:

Q. Mr. Radke, rates and changes in rates in Minnesota may go into effect only after approval by the Minnesota Commission, is that not correct?

A. That is correct.

Q. Has not the Minnesota Commission in times past approved the publication of exceptions to the classification?

A. They have.

Q. On numerous occasions?

A. Yes.

Q. On page 8 of your exhibit No. 126 you refer to the so-called Cashman Act, do you not?

A. Yes.

Q. That Act has been amended, has it not, to permit departure therefrom upon application upon the part of the carriers?

A. Yes. It has, to that extent.

Q. Is that a comparatively recent amendment?

A. 1927.

Q. It was not in effect, however, prior to the publication of the 17000, Part 2, class rates, was it?

A. It was in effect. You mean, it was never amended prior to that time?

[fol. 2512] Q. It was not in effect prior to the publication of 17000, was it?

A. The Cashman Act?

Q. The amendment to the Cashman Act.

A. Yes. It became effective in 1927 and the 17000, Part 2, rates became effective December 3, 1931.

Q. Are you not mistaken about that?

A. (No answer.)

Q. Was not the amendment passed in 1937?

A. Are you talking about Section 4719?

Q. I do not know what the number of the section is.

A. Section 4017 to which I have reference was passed in 1923 and amended in 1927, and this section does not make it mandatory upon the Minnesota Commission to harmonize all state and interstate rates.

Q. No, but the Commission may now depart; it is now discretionary, is it not, for the Commission upon application from the carriers to depart from the strict provisions of the Cashman Act?

A. They may depart from it, yes.

Mr. Olson: That is all I have.

The Witness: If in their judgment such departure is necessary.

Mr. Olson: That is all.

Chairman Aitchison: Are there any other questions of [fol. 2513] Mr. Radke?

Mr. A. L. Reed: I have one or two questions.

Chairman Aitchison: Mr. Reed.

By Mr. Reed:

Q. Mr. Radke, I did not understand what you said about the intrastate rates being designed to control the load and protect the highways in Minnesota.

A. Yes.

Q. What is the load limit in Minnesota?

A. A certain amount per axle. I do not have that information with me.

Q. Is it the practice of the Minnesota Commission to deny volume or truckload rates in Minnesota for the purpose of conserving the highways? Is that what you said?

A. Yes, sir.

Q. What did you say concerning the 60,000-pound volume rates? Do you have such in Minnesota?

A. Yes, sir. I said that the Minnesota Commission prescribed that for motor carriers.

Q. Is there any limitation in that order as to the number of 6,000-pound shipments that may be handled in one vehicle?

A. No, sir.

Q. Well, how does that preserve and protect the highways?

A. You would be privileged to load 6,000-pound loads, but you have no rates on bulk commodities such as grain, coal and many others. You do have on petroleum products [fol. 2514] now, due to the emergency.

Q. My question, Mr. Radke, was how the prescription of the rate in the manner you have described served to protect and conserve your highways in view of the fact that there was no limitation on the number of 6,000-pound shipments that might be handled in any one vehicle?

A. It is to conserve them in that we have not prescribed the National Motor Freight classification for general application by motor carriers. I called attention to all of these motor carriers that arrive in the Twin Cities metropolitan area, and if they were permitted to haul back truckload shipments, even those with minimums up to 20,000 pounds—and you know that there are about 2,500 different com-

modities in the classification subject to those minimums or less—it certainly would involve full truckload transportation on the highways.

Q. My question was Mr. Radke, assuming that you had 24,000 pounds loaded on the truck consisting of four 6,000-pound shipments, what would be the difference between that and a 24,000-pound minimum so far as your highway conservation is concerned?

A. There is none. That could be done.

Mr. A. L. Reed: One other question.

By Mr. A. L. Reed:

Q. What is the difference between the rate on the 6,000-pound volume intrastate in Minnesota and the volume first [fol. 2515] class rate?

A. 20 per cent reduction.

Q. 20 per cent reduction?

A. In other words, the first four classes, subject to the 6,000-pound minimum, are 80 per cent of the normal first four class rates.

Q. You do have truckload rates interstate from points outside of Minnesota into Minnesota, do you not?

A. Yes, sir.

Q. And truckload rates for the privilege of crossing the State of Minnesota on a Minnesota highway?

A. Yes, sir.

Mr. A. L. Reed: That is all, thank you.

Chairman Aitchison: I am not sure, Mr. Reed, I understood your last question. Truckload rates for the privilege of crossing the state of Minnesota?

Mr. A. L. Reed: Truckload rates with the privilege of passing across the state of Minnesota is what I intended to say.

Chairman Aitchison: Very well. I misunderstood one word. Are there any other questions of Mr. Radke?

Mr. Plunkett: I have one or two questions, Mr. Chairman.

Chairman Aitchison: Mr. Plunkett.

By Mr. Plunkett:

Q. Mr. Radke, in discussing page 7 of your Exhibit No. [fol. 2516] 26 you called attention to the lack of harmony between rates on Classes 2, 3, and 4, and the first class rates. Is it not true that the rail carriers published the rates to the points you have named to meet the truckers' rates to those same points?

A. I doubt it.

Q. Don't you know that to be a fact?

A. No, sir, I do not.

Q. Why did they publish rates below 17000, Part 2?

A. Well, I have never been able to find that out, but I know it was done immediately after you made an investigation in December, 1939, to determine what class traffic was moving between certain points and at what class rates.

Q. But you do not know why they made that reduction?

A. No, sir.

Q. I do not know that I understood just how you arrived at your suggested rates for Eastern territory shown in the third column on page 2. Is that a percentage reduction of the present rates?

Chairman Aitchison: Is that not the Jensen scale?

The Witness: That is the Jensen scale.

By Mr. Plunkett:

Q. That is the Jensen scale?

A. Yes.

Q. Did I understand you correctly that it is your proposal that the Eastern classification be applied in Minnesota?

[fol. 2517] A. Yes.

Q. What about class exceptions that are now published by the western carriers? Are those to be maintained or dropped?

A. We do not want them dropped. We expect, though, that we are going to have uniform classification to apply to the entire United States within the next few years.

Q. Then your suggestion was that if we have a uniform classification, the exceptions should be included in the classification?

A. Yes, sir.

Q. But you were not proposing to maintain the exceptions now published by the western lines with respect to the application of Eastern rates?

A. No, sir.

Q. Is there any freight forwarder traffic intrastate in Minnesota?

A. Not that I know of.

Mr. Plunkett: That is all.

By Chairman Aitchison:

Q. You suggest the extension of the Official Classification to Minnesota. That has six classes plus the rule, does it not?

A. Yes.

Q. You suggest a minimum of 20 and a maximum of 40 classes. How about the remaining 13 or 33 as the case may be, classes?

[fol. 2518] A. In suggesting 20 to 40 classes, Mr. Chairman, I am following the suggestion of Mr. Jensen in which he suggests that these numerical classes be eliminated and that the classification reflect the exact pecentage of the first class rates to apply to the different articles. For example, instead of classifying an article fourth class, say Column 50, Column 55, whichever the Commission determines that fourth class shall be.

Q. That is your solution of it?

A. Yes, sir.

Q. That would not be the Official Classification.

A. Well, Mr. Jensen was of the opinion, and I am too, that the classifications, the three classifications throughout the United States, cannot be brought together within a year or two; that it is going to take time. However, I do not think it is proper that the carriers should establish exception ratings, some of which, for example, were established in 1935 with expiration dates, and have been extended from year to year and are still in effect.

Q. Well, how are you going to use this seven-class scale over your territory then at the present time?

A. Drop it.

Q. You would drop it?

A. Cancel it and substitute the percentage class for it.

Chairman Aitchison: I misunderstood you. I thought [fol. 2519] you wanted the Official scale with the classification.

The Witness: At the present time we do. If the Official Classification is going to be continued in the East, it is not going to make for harmony if you should authorize or prescribe the Official C. F. A. scale for application in Minnesota without the same classification that prevails in the East.

By Chairman Aitchison:

Q. Based upon your experience, would you say that Official Classification affords a sufficient number of classes to meet the needs of Minnesota?

A. Yes. I believe it does.

By Mr. Hughes:

Q. Did you say you do think so?

A. Yes.

Q. Or that you do not think so?

A. I believe it would provide a sufficient number.

Chairman Aitchison: Is there anything further of Mr. Radke? (No response.) If not, you are excused.

(Witness excused.)

Chairman Aitchison: Gentlemen, Mr. Nightingale is next on the schedule, but Mr. Donnelly has a witness who has a prepared statement that has been distributed, and this witness must be on his way. Is there any objection to putting him on? (No response.) Apparently not.

Mr. Donnelly: The witness' name is Malaney, and his statement and exhibits have been distributed this forenoon. [fol. 2520] Be sworn, please, Mr. Malaney.

Chairman Aitchison: Raise your right hand and be sworn.

E. F. MALANEY was sworn and testified as follows:

Direct examination.

By Mr. Donnelly:

Q. Will you give the reporter your full name and business address, please, Mr. Malaney?

A. My name is E. F. Malaney. I am Traffic Manager of the Robinson Clay Product Company, Akron, Ohio.

Q. How long have you been so employed?

A. About 24 years.

Q. What is your general experience in the traffic field, Mr. Malaney?

A. I have had 24 years of traffic experience with the Robinsin Clay Product Company. Previous to that I had about 8 years' railroad experience.

Q. For whom are you appearing?

A. I am appearing for the Clay Sewer Pipe Association, Incorporated, located at Pittsburgh, Pennsylvania.

Q. Have you prepared some exhibits or had them done under your supervision?

A. I have.

Q. Are they true and correct to the best of your knowledge and belief?

A. They are.

[fol. 2521] Q. Where are shown in the exhibit the names of the companies you are appearing for?

A. On page 1.

Mr. Donnelly: Mr. Chairman, may we have this marked for identification as the next exhibit?

Chairman Aitchison: It will be marked for identification as Exhibit No. 127.

(Exhibit No. 127, Witness Malaney, marked for identification.)

By Mr. Donnelly:

Q. Approximately what percentage of the total production of sewer pipe is represented by the members that you speak for as shown on page 1?

A. About 65 to 70 per cent of the production in the territory Ohio and East.

Q. Are these located all in Official territory?

A. They are.

Chairman Aitchison: Mr. Donnelly, the understanding was you would cut this short.

Mr. Donnelly: Mr. Chairman, this exhibit includes a statement of facts. Mr. Malaney has prepared it. If there is no objection, it may be submitted with the exhibit which includes the eleven pages.

Chairman Aitchison: If there is no objection, Exhibit No. 127 is received in evidence.

(Exhibit No. 127, Witness Malaney, received in evidence.)

[fol. 2522] Chairman Aitchison: Is there anything further on direct?

Mr. Donnelly: That is all on direct.

Chairman Aitchison: Is there any cross-examination of Mr. Malaney? (No response.) There seems to be none. You are excused.

(Witness excused.)

Chairman Aitchison: Mr. Moore.

Mr. Moore: Call Mr. Nightingale.

Chairman Aitchison: Raise your right hand and be sworn.

EDMUND A. NIGHTINGALE was sworn and testified as follows:

Direct examination.

By Mr. Moore:

Q. Will you state your full name, please?

A. Edmund A. Nightingale.

Q. What is your present occupation?

A. Principal Industrial Specialist, Transportation Branch, War Production Board, Washington, D. C.

Q. How long have you been engaged in that task?

A. Since October 12, when I was asked to come to the Board, for a special assignment.

Q. Prior to October 12 what was your occupation and what were your connections?

[fol. 2523] A. A member of the staff of the School of Business Administration, University of Minnesota, Minneapolis, Minnesota, teaching in the transportation field.

Q. Did you have any connection with any state institution or state organization?

A. I have been a member of the Transportation Committee of the Minnesota Resources Commission since 1939. Since July 1, 1941, I have served the Minnesota Resources Commission as Consulting Transportation Economist.

Q. How long did you say you were on the faculty of the University of Minnesota?

A. For the last 8 years.

Q. What is, briefly, the Minnesota Resources Commission?

A. The Minnesota Resources Commission is an executive agency of the state charged with the development of the resources of the State of Minnesota. It replaced the former Minnesota State Planning Board which came into existence in 1934.

Q. What connection did you have with the Minnesota Resources Commission?

A. My connection with the Minnesota Resources Commission is that of Consulting Transportation Economist.

Q. It is the Minnesota Resources Commission that is making this appearance here, is it not?

A. I am appearing for the Minnesota Resources Commission, yes, sir.

Q. Have you prepared an exhibit, Mr. Nightingale?

[fol. 2524] A. I have.

Q. Is the nature of that exhibit substantially stated correctly on the front as an economic background for the class rate investigation?

A. That is correct.

Q. Does that exhibit contain what might be called two types of exhibits, that is to say those of a general nature and those of a somewhat more specific nature?

A. That is approximately correct.

Mr. Moore: May this exhibit be given a number, Mr. Chairman?

Chairman Aitchison: It will be marked for identification as Exhibit No. 128.

(Exhibit No. 128, Witness Nightingale, marked for identification.)

Mr. Moore: In order to facilitate the presentation, will you indicate briefly the table numbers and the page numbers

of the so-called general exhibits or general tables appearing in the exhibit, and make such brief comment on those as you may deem pertinent; and thereafter proceed to identify and explain the specific exhibits.

The Witness: I should say the tables of a more general nature in giving the Interstate Commerce Commission an idea of the resources of Minnesota and the state of present development, might be stated somewhat in this manner: [fol. 2525] Table 1, page 2, shows the population figure of the Western Trunk Line states. In this table we have shown the rates of growth from 1920 to 1930 and also from 1930 to 1940. We have also attempted to indicate, for the population given by the Bureau of the Census for 1940, the breakdown between urban and rural population for the eight states in Western Trunk Line territory. You will note that the population distribution for Minnesota is almost equal between urban and rural. Furthermore, the rates of growth of urban and rural population between 1930 and 1940 in Minnesota are in decided contrast to those of some of the other Western Trunk Line territory states. I am merely pointing out that we have a fairly balanced population in that area. Turning to Table 2—I shall try to shorten this so as not to impose upon the time of the Commission—we have split for the first time the population of the state by Western Trunk Line zones as set out by the Commission in 164 I. C. C. 1.

Q. Is that zone also described on page 1 of the exhibit in that form?

A. Yes.

Q. Go ahead.

A. The map on page 1 indicates the boundaries of Western Trunk Line Zones 1 and 2. I might point out that the important border cities of Minneapolis, St. Paul and Duluth in all cases—by that I mean Table 2 and subsequent tables [fol. 2526] showing breakdowns by Western Trunk Line Zones—have been included in Zone 1. As a matter of fact, those three cities could have been segregated and shown as border points, but we did include them in Zone 1.

Q. What inference is it you wish the Commission to draw from Table 2 divided as it is into zones and counties in the zones?

A. I am sorry, but I did not hear your question.

Chairman Aitchison: Read the question.

(Question read.)

A. I should say that the attempt was merely to indicate the distribution of the Minnesota population between Western Trunk Line Zones 1 and 2. You will note that it is fairly equally divided, notwithstanding the fact that in Western Trunk Line Zone 2 approximately one-quarter of the entire area of the state is in what might be called a state of Nature. I am thinking of the 13 northern cut-over counties in the so-called northeastern part of the state. That would be taken into account in interpreting any population densities.

By Mr. Moore:

Q. Proceed with your explanation, please, Mr. Nightingale.

A. Passing to Table 3, I should like to point out the importance of Minnesota in terms of rail tonnages originated and terminated in Western Trunk Line territory and the United States. The detailed breakdown of these tonnages is shown in Table 36 on pages 49 and 50. Passing [fol. 2527] to Table 4, the manufacturing picture in the Western Trunk Line states is given with comparisons for the other states and percentages of Minnesota manufactures, and so forth, to Western Trunk Line and the United States totals. A further breakdown of Minnesota industry, that is of the 4,008 establishments in the state, appears in Table 5. Table 6——

Q. Pardon me.

A. Yes.

Q. What are the prevailing products?

A. I am sorry, Mr. Moore, but I did not hear your question.

Q. Of what type of industry do you have a greater number than any other?

A. The major share, or should I say the largest number—in other words, almost 45 per cent of industrial establishments in Minnesota is engaged in processing food.

Q. Go ahead.

A. Table 6 gives a breakdown of all manufactures in Minnesota by counties and Western Trunk Line zones. Again it should be pointed out from the foot notes on

page 11 that we leaned over backward again in the case of Carleton County. Carleton County, so far as population is concerned and agricultural data, was thrown into Western Trunk Line Zone 2, but in view of the fact that the manufacturing establishments just outside of Carleton are given the Carleton rates, although geographically they are beyond Zone 1, we included Carleton County in [fol. 2528] the Zone 1 totals.

Q. Does this table, Mr. Nightingale, show the number of establishments in each of the zones, that is Zone 1 and Zone 2, within Minnesota?

A. Yes. Of the 4,008 manufacturing establishments, 1,302 are located in Western Trunk Line Zone 2.

Q. Proceed.

A. Passing to Table 13 on page 20, I have shown for the United States and the Western Trunk Line states, the per capita income payments which gives one some idea of the purchasing power in these areas and also the change from 1929 to 1940. Table 14, page 21, Table 15, page 22, Table 16, page 23, and Table 17, page 24, are intended to give one complete picture not only of the iron ore shipments in the past 12 years, but also the resources with respect to the various types of ore that are being moved from that state, and what lies under the ground for the future, particularly if one is thinking of the post-war picture.

Table 18 is a general table of land area classified to its productivity in the Western Trunk Line state and the United States, and, of course, by way of passing it might be pointed out that Minnesota has a comparatively large percentage of the best agricultural land of the United States, much of which is located in Zone 2, that accounting in part for the relatively high incomes per farm and per [fol. 2529] acre in Zone 2. Obviously, of course, the incomes in Zone 1 are slightly higher because of the different type of agriculture.

Again, a general table, No. 19, appears on page 26, which is intended to indicate the use of the land area of that state. We have shown also in map 2 on page 27 not only the Western Trunk Line Zones 1 and 2 boundaries, but also the types of farming areas in that state. It will be noticed from an examination of that map, that the types of farming areas do not coincide by any means with the present Zone 1 and Zone 2 boundaries. Passing to Tables 22 and

23, we have shown the principal crops of that state by acreage, production and value of products for the last 3 years for which data is available and in Table 23 on page 35 we have shown the percentage of United States production and the United States rank for the principal crops of the state of Minnesota.

Table 30, page 43, Table 31, page 44, and Table 32, page 45, are intended to show the forest stands of the state and the possibilities, as a matter of fact; the storages or reserves of certain types of timber for the pulpwood production in particular, which is indicated in Table 34. These forest products tables, of course, are particularly pertinent in view of the fact that there is a very considerable utilization of those forest products in manufacture within the [fol. 2530] area, and as spruce becomes increasingly scarce—in fact, the spruce supplies of that area are none too great at the moment—the jack pine and aspen of the Minnesota area becomes of increasing importance for utilization in the mills of Wisconsin which are the principal producers in that area of certain types of paper products, and in the Minnesota mills, as well. That, Mr. Moore, concludes the so-called general or general-specific type of table.

Q. Proceed then to the latter portion of the exhibit, those tables which you wish to give some special treatment.

A. I should like to call attention to the table on flaxseed production in the state of Minnesota as an interesting example of a new type of production of a good which formerly went to waste. I am referring to Table 10 on page 15, and Table 11 on page 16. You will note that the flax acreages threshed and the bushel production has been steadily increasing, Minnesota being, of course, the No. 1 state in the United States in flax production. Since 1938 the matter of producing flax tow or partly decorticated flax straw, resulted in the operation of something like 10 mills shown in Table 16. It so happens that the American cigarette paper production at the present time comes entirely from flax tow produced in the United States. Minnesota is supplying at the moment, two-thirds or a little better of that flax tow production. It is a new commodity [fol. 2531] which hitherto was not manufactured in that state. Of course, as time goes on it may become an increasing source of revenue tonnage for the carriers, long-haul tonnage, I might add, also.

Q. Is it true that cigarette paper was formerly imported from France?

A. All American cigarette paper, almost without exception, was imported from France and made basically from linen rags. This is a new American industry. I might call your attention also to the Minnesota dairy statistics, which appear in Table 25 on page 37, Table 26 on page 38, and Table 27 on page 39. Aside from the fact that Minnesota is the No. 1 state in butter production and builds up a very sizeable volume of tonnage available for shipment without the state, particularly in view of the fact now there is no service on the Great Lakes—in general I believe it would be correct to say there is no eastbound movement of butter on the Great Lakes—the tonnage figures indicated in Column 5 of Table 26 are of some significance to the rail carriers. In Table 27 we would like to call attention also to what might be called some of these dairy by-products, such as condensed and evaporated milk, which we have converted into tons, something like 29,463 tons, over 18,000 tons of condensed or dried or powdered buttermilk, 17,000 tons of dried or powdered skimmilk and casein, 3,000 tons. Casein is an indispensible article in the production of so-called slick magazine paper [fol. 2532] and certain types of plastic, and the production of it is on the increase. The figures for 1942 in all cases on the basis of expanding production will be considerably higher.

I should like to call attention, also, briefly, to the studies of the canning industry in Minnesota. The canning industry data appears in Table 18 on page 13, and the location of the canneries in Table 9 on page 14. Again we have tried to show something of the growth of this industry in that state since 1921. As a matter of fact, the growth factor is apparent since 1935. We have shown also the production in terms of tonnage. Now, obviously, all of the production there is not sold without the state. Some, naturally, is even within the state of Minnesota, but there still is a very considerable volume of product shipped out of the state by rail. I should like to call attention also to Table 7——

Q. Just a minute, please, Mr. Nightingale.

A. Yes.

Q. Before leaving that part of the exhibit, briefly, what does Table 9 show.

A. I am sorry. Table 9 is intended to show the location of these various canneries in Minnesota, canneries of corn and peas, basically, by Western Trunk Line zones. You will note that a sizeable number of those canneries is located in Western Trunk Line Zone 2, so-called, higher rated territory for interstate rates.

[fol. 2533] Q. Go ahead.

A. Before turning to Table 7 I should like also to call attention to the fact that the breakdown of agricultural acreage, farms, value of farm products sold or traded, by Western Trunk Line zones in Table 20, is also to be compared with Table 21 on page 32, in which we have included the corresponding agricultural data for the 13 northern Wisconsin counties in Western Trunk Line Zone 1. You will find, generally speaking, that the average of these 13 northern counties in income per farm is $496. The value of farm products sold or traded per acre in 1939 was $4.63. In the Zone 2 tabulation for Minnesota, in Table 20, the so-called northern cut-over counties which are comparable with the 13 northern Wisconsin counties, have in some cases approximately the same income per acre or income per farm. In some cases the northern Minnesota cut-over counties have a higher income per farm and per acre as in the case of St. Louis County. St. Louis County at $4.65 an acre is comparable with a number of those counties in northern Wisconsin. The point is, however, that the 13 northern cut-over counties in Minnesota are in Zone 2, generally speaking, whereas those in northern Wisconsin are in Zone 1.

I should like now to call your attention to Table 7 on page 12, which is an analysis of the questionnaires. As a matter of fact, these questionnaires were prepared and [fol. 2534] submitted at a meeting of leading industrialists of Minnesota a few years ago in order to report to the Senate Interim Committee some of their ideas on Minnesota industry, its progress and development. I would call attention to the fact that of the 28 industrialists of size who were questioned, the reply from 16 of them by types of industry was unsatisfactory. That is to say, the differentials on Minnesota freight rates interstate, compared with those of other regions were unsatisfactory. It is interesting to note with respect to the two favorable replies, that one came from a cooking equipment company

and one from a timber conservation organization. There were, of course, satisfactory replies received from the cooperative butter association reported here, the structural steel and woolen textiles organizations, a knit goods house, one woman's apparel house, one paint and varnish organization, one roofing, one sheet metal and one interstate meat packing organization. You will note, however, that another meat packing organization operating on an interstate basis reports an unsatisfactory rate situation from this standpoint. That is all I have to say.

Q. Mr. Nightingale, I do not believe you referred to Table 28.

A. I beg your pardon.

Q. Referring to potato production.

A. That is right.

[fol. 2535] Q. Did you not have some comment to make upon that?

A. We included Table 28 and Table 29 to give some idea of the railway tonnages which were available from the potato crop, and to give some idea of the extent of distribution of Minnesota potatoes.

Q. Has there been any new improvement in the method or manner of handling and processing potatoes?

A. Only recently two dehydration plants have been set up in northwestern Minnesota, the idea being to carry out prepared so-called dehydrated food production for shipment abroad.

Q. Do you know whether, recently, there has also been established a number of egg plants, plants that handle eggs?

A. Yes. In the last year approximately five dried egg plants have been set up. Within the last year approximately five dried egg plants using the so-called spray-dry process have been set up, and before 1942 is completed, it is expected that approximately ten more will be in operation with an annual production of about 25,000,000 pounds, the idea being that one pound of dried eggs is equivalent to three pounds of eggs in the shell.

Q. Have you anything further to say, Mr. Nightingale?

A. No. That is all I have.

Mr. Moore: We offer Exhibit No. 128 in evidence, if the Chairman please.

Chairman Aitchison: Is there any objection to the receipt [fol. 2536] in evidence of Exhibit 128? (No response.) Without objection it is received.

(Exhibit No. 128, Witness Nightingale, received in evidence.)

Chairman Aitchison: Is there any cross-examination?
Mr. Hughes: I have a very few questions.
Chairman Aitchison: Mr. Hughes.

Cross-examination.

By Mr. Hughes:

Q. I want to ask you a little bit more about your questionnaire, which you set out in your Table 7. Was that a questionnaire that was submitted and that related to very many factors in the industrial situation other than freight rates?

A. The questionnaire, Mr. Hughes, related to a number of factors, labor, freight rates, taxes, and things of that sort. We thought it pertinent to extract from it—incidentally, I am working from the questionnaires, but the questionnaires were confidential and I am not at liberty to reveal the names of the firms. However, we did tabulate the data concerning the freight rate differential situation.

Q. You excerpted material relating to the freight rates from the rest of the material?

A. Yes.

Q. The rest, you say, is confidential?

A. As a matter of fact, Mr. Hughes, the entire questionnaire is confidential so far as the names of the firms are [fol. 2537] concerned, but this data was published in the Senate Interim inquiry on Minnesota industry, its progress and development, the point being that in the Senate report only the total number of replies with a breakdown of favorable, satisfactory and unfavorable, were given. I took those questionnaires and analyzed them as to the type of industry making the response. That was my only purpose in setting up this table.

Q. Could you state how many individual units of these industries were included in your questionnaire?

A. I would hesitate to say, Mr. Hughes, because that would be revealing confidential information. I said in my

earlier testimony that the people who filled out these questionnaires were the largest industrialists in Minnesota.

Q. You list 28 here, and I was wondering whether the units represented would be more, perhaps substantially more, than the 28 that you mentioned here.

A. That is correct. Shall I put it in general terms?

Q. That would be perfectly all right.

A. The 28 organizations here in general operate a great many more plants.

Q. Did you make any investigation to ascertain whether or not the group which you have listed as saying that their freight differentials were unsatisfactory, would be benefitted by a class rate readjustment as distinguished from other rates?

[fol. 2538] A. In some cases, Mr. Hughes, it is obvious that certain of the articles which are processed or manufactured move on commodity rates.

Q. Well, I see that among those articles which are under the heading "Unsatisfactory" are such things as granite.

A. That is correct.

Q. And flour milling.

A. That is correct.

Q. Barn equipment.

A. Yes.

Q. Boat and ship building.

A. Yes.

Q. They would not be apt to be moving under class rates, would they?

A. You must bear in mind in connection with some of those industries, that there is an inbound movement of raw materials which might, in some cases, move under class rates.

Mr. Hughes: That is all.

Chairman Aitchison: Are there any other questions of this witness? (No response.) If not, you are excused.

(Witness excused.)

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: We will suspend until 9:30 in the morning.

[fols. 2539-2540] (At 5 o'clock p.m., November 17, 1942, adjournment taken until 9:30 o'clock a.m., November 18, 1942.)

[fol. 2541] Hotel Deshler, Columbus, Ohio,
November 18, 1942.

Met, pursuant to adjournment, at 9:30 o'clock a. m.

Before Division-2 of the Commission.

Hon. Clyde B. Aitchison, Chairman of the Commission, presiding. Hon. Walter M. W. Splawn, Commissioner, Hon. J. Haden Alldredge, Commissioner, and a cooperating Committee of the National Association of Railway & Utilities Commissioners represented by: Mr. John J. Murphy, South Dakota Public Utilities Commission; Mr. George McConnaughy, Price Utilities Commission of Ohio, and Mr. W. H. Scott, South Carolina Public Service Commission.

Present: Paul O. Carter, Examiner, W. J. Koebel, Examiner, T. Leo Haden, Examiner.

Appearances: As heretofore noted and the following additional.

H. E. Manghum, Transportation Building, Washington, D. C. appearing for Heywood-Wakefield Co.; National Furniture Traffic Conference; and New England Furniture and Allied Products Manufacturers' Traffic Committe.

[fol. 2542] Proceedings.

Chairman Aitchison: Shall we be in order.

Mr. Bee: If the Commission please.

Chairman Aitchison: Mr. Bee.

Mr. Bee: Governor Adkins.

HOMER M. ADKINS was sworn and testified as follows:

Direct examination.

By Mr. Bee:

Q. Please state your name.

A. Homer M. Adkins.

Q. You are Governor of the State of Arkansas?

A. Right.

Q. You are appearing here in your official capacity, as Governor of the State of Arkansas, are you?

A. Yes, sir.

Q. And also as a member of the Southern Governors' Committee, to present certain matters to the Interstate Commerce Commission?

A. Yes, sir.

Q. I believe, Governor, that you have prepared your testimony in typwritten form; is that correct?

A. Yes, sir.

Q. Will you just proceed in your own way, please, Governor, to enter your testimony in the record.

A. Mr. Chairman, and members of the Commission: I [fol. 2543] am very happy to appear at this hearing as Chief Executive of my State. The intricacies of the freight rate structure are such that I may not attempt to qualify as a rate expert. It is of keen interest to Arkansas that the Interstate Commerce Commission has of its own initiative decided to ascertain what may be wrong with this territorial freight rate adjustment. The effect of freight rates is not without my knowledge as I have participated in a great many discussions dealing with this problem as a member of the Southern Governors' Conference. That Conference has given this question active study and consideration. From the information I have it appears that certain parts of this nation are favored with transportation costs so much lower than our section that it is questionable whether under the present theory of rate-making the natural resources of our section may be developed and processed within our area under such circumstances as will permit distribution of the products throughout the nation on a basis competitive with similar production in other sections.

I am a native Arkansan and my experiences have been such that I have been able to observe for many years the lack of normal development of industry in our state. I have spent many years in the field of insurance and for seven years prior to becoming Governor was Collector of Internal Revenue for Arkansas. These activities permitted a general study of our situation.

[fol. 2544] Since assuming direction of our state affairs, most of my time has been spent in the interest of the development of industry and agriculture within our bounda-

ties. My efforts in this direction have caused me to be in contact with industry and in many instances the cost of transportation has created a barrier which in itself has retarded our efforts.

It seems to me that our nation should not be developed sectionally but rather upon a national basis, and to my mind, at least, we cannot have this national development as long as we divide the nation into territories with varied levels of freight rates. I am hopeful that as a result of this investigation, the Commission in its mature judgment will find that not only the present but the post-war development of the nation, as well as the post-war situation confronting employables will warrant equal treatment as to transportation costs to all parts of the territory involved.

We have a number of industries in Arkansas, Oklahoma, Louisiana, and Texas, constructed and operated solely for the manufacture of commodities to be used for war purposes. It would be a disgrace to the nation if these large factories and their equipment may not be used for peacetime manufacture after we have won the victory in this great conflict in which we are engaged.

The most important feature connected with the conversion of these plants to peacetime use is that even before [fol. 2545] the war is over consideration should be given to the adaptability of these plants for the production of certain commodities and this may not be intelligently decided unless there are available freight rates on whatever goods may economically be produced so that the products may be distributed throughout the country on a basis competitive not only with like industry but with industry manufacturing competing commodities. By this I mean that we should not wait until the post-war period to establish such freight rates, even though they may not be used until that time. If we have the same level of class rates, mile for mile, throughout the entire area, and a uniform classification, an intelligent survey may be made. This should permit the workers in these plants to remain in the area and have employment in the same locations; otherwise, we will have a deluge of movement of population back to the large centers, or an insurmountable relief burden.

The Southwest is ideally located geographically and climatically for industrial development. A great deal of our raw materials have been produced with labor paid at or near common labor wages and the manufacture has

occurred outside of our state. The result of this is that we are kept poor. The higher income which accompanies skilled labor wages permits greater social and other developments in the manufacturing areas.

Power. There is and will be ample power available in [fol. 2546] the Southwest for industrial development. Hydro-electric power has been and is being developed in Oklahoma and Texas. Arkansas has two great hydro-electric dams on the Ouachita River contributing to the state's power system. Under construction in Arkansas is the hydro-electric power plant at Norfork which will provide 120,000 Kilowatts and this will be increased through congressional action authorizing construction by 500,000 kilowatts.

Natural Gas. It is a known fact that Southwestern Region has the greatest reserve of natural gas available in the nation. The estimated reserve in the fields of South Arkansas alone is approximately 1,000,000,000,000—one thousand billion—cubic feet and exploration now in progress may extend these estimates in the very near future. This gas carries a large hydrogen-sulphite content and for a while it was doubtful that it could be made commercial. Through competent investigation and experimentation means were devised whereby the extraction of sulphur contained in this gas is entirely practical and several extraction plants are now operating in the state. This has the effect of not only providing the natural gas but also of adding to the nation's supply of sulphur.

Coal. Arkansas and Oklahoma have ample coal reserves. In Arkansas alone the coal reserve or deposits are in excess of 800,000,000 tons. My information is that the principal [fol. 2547] market for our coal is in Kansas, Nebraska, Iowa, and I am told this is due to the difference in freight rates, Arkansas mines versus other producing mines, and we cannot market east of the Mississippi River. If we may not be privileged to market our coal as such I am not particularly alarmed provided we may industrialize our section in such manner that we may use our coal at home. One or the other must occur. This coal can be converted into electric power which may be transported by wire and thereby avoid these high freight rates on coal and undoubtedly this will occur unless our freight rates are adjusted.

Petroleum: The Southwest is the greatest producer of petroleum. Each of the four states is a heavy producer. Arkansas produces great quantities of petroleum. The railroads are not hauling as much petroleum as they should. A great deal of it is moving by pipe line, some of it by water, and two large pipe lines are now under construction across the state. There can only be one reason for this and that is that the rail transportation costs are sufficiently high that other modes of transportation are warranted economically.

Bauxite. Bauxite is a mineral which in national emergencies such as the present has been found to be invaluable. Arkansas produces 90 per cent of the nation's output. The aluminum which is made from bauxite is vital to many industries. The mines are in the center of the state. Our [fol. 2548] peactime production, over a period of years, averaged about 475,000 tons annually. This year we will produce one million tons and in 1943 approximately two million tons.

There has been constructed and is now in operation, a plant at Bauxite, Arkansas, for the production of alumina and due to the available water and power, a plant has been constructed and is operating at a point near Malvern and Hot Springs to convert this alumina into aluminum. All these materials are being used in the war effort. Prior to the war the only benefit our state derived from this mineral was the production of the ore and most of this is done by labor paid at practically common labor wages. The ore was then taken to East St. Louis where it was converted into aluminum and then taken to Eastern plants for manufacture into finished product. In other words, we produce the ore and the manufacture into semi-finished and finished articles occurred outside of our state.

If this continued we would ultimately denude our state of bauxite with no appreciable resulting value to us. When the war is over these plants should continue to operate for peacetime purposes and they cannot do this successfully unless our freight rate adjustment is such as will permit competition with plants in other locations using foreign ore. The pots and pans and other aluminum parts of aeroplanes, radios, and other articles, should very well [fol. 2549] be manufactured in our state.

General. There are many commodities which should be manufactured completely in our state. We have cotton

and no large cotton mills. Our cotton is shipped outside of the state and all that we have in the way of manufacture is the products of the seed. I think reasonable and non-discriminatory freight rates would permit manufacture of our cotton, limestone, clay, marble, zinc, lead, and many other resources within our state and the Southwest generally and the manufactured products distributed throughout the area involved in these proceedings.

The fact that the Southeastern and Southwestern states have *have* introduced their evidence separately here does not mean that there is a divergence of views. The Southern Governors Conference includes the States of Arkansas, Oklahoma, Louisiana and Texas and it is the recorded view of the Conference that discriminations affecting the Southeast and Southwest are having like effect on both regions as is indicated in resolution adopted at its Hot Springs meeting, April 19-21, 1942, copy of which is here presented and made a part of my testimony.

Mr. Bee: If the Commission please, may I introduce the resolution as an exhibit at this time?

Chairman Aitchison: I am sure it is already in the record. [fol. 2550] Mr. Bee: All right.

The Witness: In conclusion I want to again express to the Commission my appreciation for the opportunity of appearing and advising you of my views in regard to the situation confronting our state and the Southwest from a transportation viewpoint in its relation to development. As I said at the outset, I am not a rate expert but it is plain to me at least that there is something wrong with our present freight rate adjustment and I am hopeful that discriminations which exist will be quickly removed so that, with the fine rail and highway systems we have operating in and through our state and the Southwest, the markets of the North and East may be made economically accessible to the products of our agriculture, mineral and forestry resources, when processed at or near their source.

Thank you.

By Mr. Bee:

Q. Have you anything further to add at this time, Governor?

A. Nothing.

Mr. Bee: Governor Adkins is now tendered for cross-examination, if the Commission please.

Chairman Aitchison: Cross-examine.

Mr. Barron: I have one or two questions, please.

Cross-examination.

By Mr. Barron:

[fol. 2551] Governor, I understand from your statement that you do admit at least a passing knowledge of the freight rate adjustment in Arkansas. Is that correct?

A. Why, I cannot say that I have, as an expert; but I do have in a general way, from my own observation.

Q. Yes.

A. As I stated at the outset, however, and I want to repeat now, I am not a rate expert.

Q. Now, you referred to a lack of normal development of industry in Arkansas.

A. Yes.

Q. May I ask you what you mean, please, Governor, by the term "normal development"?

A. Well, as a matter of fact, we have not had, except for war plants, any development industrially in Arkansas.

Q. Well, you mean, then, by "normal development", that you have not had any at all; is that correct?

A. Very little.

Q. You have large canning industries in Arkansas, do you not?

A. Some.

Q. You have some cottonseed mills in Arkansas, have you not?

A. Yes, sir,—cotton oil companies.

Q. And lime plants?

A. Some.

Q. And paper mills.

A. I think we have two.

[fol. 2552] Q. You have some cotton mills in Arkansas, have you not?

A. No large mills. The one at Monticello in particular is a very small mill.

Q. Well, you have one at Malvern also, have you not?

A. Where?

Q. Malvern. There is a textile operation there, that has something to do with shoes,—an enormous plant of the International Shoe Company; that is correct, is it not?

A. No, sir, it is not an enormous plant, because we only produce 5,000 bales of cotton in that county. I happen to live in that particular county.

Q. Now, you spoke generally about your cotton situation in Arkansas.

A. Yes.

Q. You said that you do not have any mills, but you have lots of cotton.

A. I said that we have no large cotton mills.

Q. Do you think that the freight rates on your cotton have in any way retarded the development of the cotton textile industry in Arkansas?

A. They most certainly have, yes, sir.

Q. Would you be surprised, Governor, if I were to tell you that your rates on cotton from Arkansas to Boston, Massachusetts are lower than they are in so-called Official territory.

A. Well, as I stated before, I am not an expert on rates, [fol. 2553] but I do know this, that a great deal of cotton is hauled to Camden, Arkansas, and goes down the Ouachita River, and down that way.

Q. Well, did you know, Governor, that the rate on cotton from Blytheville, Arkansas, to Boston, Massachusetts, is 82 cents, and for the same distance, 1,348 miles, in Official Classification territory, the rate is $1.06?

A. No, sir, I do not know that; and I must repeat again to you that I am not a rate expert, and I have no knowledge of the detail, or the intricacies of these technical matters.

Q. Nor did you know that the rates from your cotton producing points to Chicago are lower than for the same distance in Official Classification territory?

A. I am very sorry, sir, but I was not able to hear the first part of the question.

Mr. Barron: Will you read it, please.

(Question read.)

Com. Alldredge: What do you mean by cotton producing plants? Was that your question?

Mr. Barron: No, your Honor. "Cotton producing points", I thought I said; and I should have said, if I

did not. I have in mind, for instance, Little Rock, cotton moving through Little Rock.

Com. Alldredge: Cotton?

Mr. Barron: Yes, sir; cotton; that is exactly what I said. [fol. 2554] A. Well, so far as your Official Territory is concerned, I do not know just what the situation is there. May I ask you if there is any cotton produced in Official Territory? That might have entered into the situation. If I understand it correctly, I do not believe that there is any cotton produced in Official Territory.

By Mr. Barron:

Q. Well, Governor, I am now referring to Exhibit No. 96, that was introduced by the witness Murray, who, as I understand it, is representing the Arkansas interests. Now do I understand you to say that you do not know what Official Classification Territory is?

A. No. I say, I do not know the situation in what you refer to as Official Territory, or the exact boundaries of it, or whether there is any cotton produced there, or not. That is what I was trying to say.

Q. Well, now, what particular freight rates did you have in mind, that you think have caused this retarding, or this inability on the part of Arkansas to develop industrially, Governor?

A. That have caused it not to develop industrially?

Q. Yes. What freight rates do you have in mind?

A. Well, all I know is that in one instance not so long ago the representative of the Sugar Creek Creamery Company from Illinois came to talk to me about locating a plant in Arkansas,—as a matter of fact, I was trying to get them to [fol. 2555] locate a plant in the northeastern part of the state; and he said, "We just cannot do it, because of your freight rates. Because of your freight rate situation we cannot get into St. Louis like we should, from out there."

Q. What commodity or commodities was he going to ship, if you know?

A. Well, I imagine that they are manufacturers of butter, cheese, and so forth, and so on.

Q. Well, now, Governor, you have talked about your rates on cotton, limestone, coal, gravel, zinc, lead, and many of the other resources of your state. If there is an adjustment of the class rates, as is involved in this proceding, do you

think that the class rates will affect the rates on those particular commodities?

A. Well, again, you are getting right back to the same point that we have discussed before. However, let me answer your question this way: just purely from a layman's standpoint, it might be well if we had to give up the commodity rates, it might be beneficial to do that, so that we could retain our products within our state, and manufacture them within our own state, which we have not been privileged to do up to the present moment. However, as I say, I am not a rate expert.

Q. Now, you refer to the petroleum industry.

A. Yes.

Q. And you gave, as I understood it, somewhat added [fol. 2556] emphasis to the large pipelines that are being built.

A. Yes.

Q. And I believe you indicated that the contributing factor toward the building of those pipelines, was the high freight rates; is that correct?

A. Well, it is common knowledge, of course, that they are constructing those two pipelines, one over to the Mississippi River, and the other leading up into Illinois.

Q. But you know, do you not, Governor, that that is absolutely and entirely a defense measure; part of the defense program?

A. Partially, I would say.

Q. And you know, do you not, that if the railroads were to haul petroleum from Arkansas to the Atlantic seaboard for nothing, they would not or could not haul any more of it because they do not have the equipment to haul it? You know that to be a fact, do you not?

A. Well, no, sir, I couldn't say that; I am not entirely advised, in that particular connection.

Q. Then you are not familiar with the compliments that have been passed out to the railroads, as to their ability to haul petroleum?

A. Oh, I believe that they are doing the best they can, as far as that is concerned, yes, sir.

Q. Now, you are also quite concerned, as I understand it, with the postwar period, and you believe that you should [fol. 2557] have freight rates established now to move whatever commodity may be manufactured in these plants,

these defense plants, after the war, I understood you to say. Is that correct?

A. Yes, sir.

Q. Well, now, Governor, how can you tell today what commodities will be manufactured in these present defense plants after the war?

A. Well, we have a large plant there of Ford, Bacon & Davis, and that plant, taking it for example, would have to be converted after the war; and it certainly would be a great calamity if we were not able to have converted a plant of that sort, a $70,000,000 or $80,000,000 plant, for the postwar period, which undoubtedly would not be done if they knew that the freight rates were not going to be such as would allow them to compete with other territories.

Q. Well, Governor, what I am anxious to find out is how you can determine what commodities are going to be manufactured after the war, and what freight rates will be necessary to move those commodities. You are not advocating to the Commission, I take it——

Chairman Aitchison: Well, now, just a moment. Let him answer one question at a time.

Mr. Barron: All right. Will you answer my first question, then, please.

A. Would you mind stating it again.

[fol. 2558] Mr. Barron: We will have the Reporter read it.

(Question read.)

A. Well, for example, there is an ammonia plant at El Dorado, in the oil field; and the chances are, if rates were established that would enable that plant to continue operation after the war was over, there would be sulphur, and various other things that might be manufactured there.

By Mr. Barron:

Q. Well, is the ammonia being manufactured at that plant in commercial quantities at the present time?

A. It will be shortly.

Q. Do you know what freight rates have been established, for the movement of the ammonia?

A. No, sir, I do not. I must say to you again, sir, that I am not a rate expert, and I do not pretend to be.

Q. But you know, do you not, Governor, that generally speaking, in your territory, in Oklahoma, in western Louisiana, and in Texas, the rates on the commodities that move in volume are commodity rates, that have been established by the railroads? You know that, do you not?

A. I imagine that is correct; yes.

Chairman Aitchison: The Commission prescribed those rates under the Hoch-Smith Resolution, did it not?

Mr. Barron: It certainly did, Mr. Chairman. One of those commodities was grain; another, livestock; and also petroleum, in 17000, Part 4.

[fol. 2559] Chairman Aitchison: Why put a question to the witness, then, that you know is based on a false premise?

Mr. Barron: I do not know that, Mr. Chairman, and I do not think the question is based on a false premise. Now, Governor, just one or two further questions, if you please.

By Mr. Barron:

Q. You spoke about one creamery company that would not locate in Arkansas because of the freight rate situation.

A. Yes.

Q. Do you happen to know whether or not that particular creamery company asked any of the railroads for an adjustment of freight rates in anticipation of locating in Arkansas?

A. No, sir, I do not, and the gentleman with whom I talked did not say anything about that.

Q. Do you know of your own knowledge of any industry that has not located in Arkansas simply because of the freight rate adjustment, to and from the state of Arkansas?

A. All I know is, as I have stated before, that we have not had any development in the state. We have been shipping our raw materials out of there,—like bauxite, of which Arkansas produces 90 per cent of the nation's supply.

Q. Bauxite ore, you are speaking of?

A. Yes, sir.

Q. The industry which you have there at the present time, as far as that is concerned, is a defense industry, is it not?

[fol. 2560] A. It enters into the defense program, yes, sir.

Q. And, you know that the railroads have established trainload rates on bauxite ore from Arkansas to Vancouver, Washington, do you not?

A. No, sir, I do not, because those matters are moving too fast, now, for anybody but an expert to keep up with.

Q. I see.

A. Because of changing conditions.

Mr. Barron: That is all. Thank you.

Chairman Aitchison: Are there any further questions of Governor Adkins?

Mr. Grubbs: Yes, if your Honor please.

By Mr. Grubbs:

Q. Governor Adkins, in your statement concerning alumina, you stated that that is produced in Arkansas and shipped to East St. Louis, Illinois?

A. Yes.

Q. I would like to ask you if it is not true that a very large part of that alumina is shipped to Alcoa, Tennessee, and to Baden, North Carolina?

A. Why, it has been shipped to those points, yes, sir. You see, if has been only recently that we have started to manufacture the alumina. It been the bauxite ore itself that has been shipped, up until recently.

Q. Well, is it not true that both the bauxite ore and the aluuina have been largely shipped to the plants of the [fol. 2561] Aluminum Company of America that are located at Alcoa, Tennessee, and Baden, North Carolina?

A. They have been shipping there, but I think that there has been quite a lot shipped also to Alabama, to the Reynolds Company, I believe.

Q. Yes.

A. And to East St. Louis, and various other points.

Q. Well, you do not mean to say by your statement, do you, Governor, that the shipments so far have been largely to East St. Louis?

A. Well, I do not have, of course, any intimate knowledge of the detailed operation of the Aluminum Company of America.. All I know is that I met one of their representatives on the train from Washington, and he told me that they did get a lot of their ore from Bauxite; that their former shipments had been cut off, from South America.

Q. But you have not made any investigation, have you, Governor, to determine the percentage of the shipments that go to East St. Louis, as compared with those that go to points in Southern territory?

A. No, sir, I have not, and I do not have anything definite in mind, as to the tonnage.

Q. No. Now, you stated, Governor, that you cannot move your coal east of the Mississippi River, I believe, and therefore you are anxious to have industry located in Arkansas, [fol. 2562] where it can use the coal that is produced in Arkansas.

A. Yes, sir.

Q. I want to ask you if it is not true that — the present time large quantities of coal are moved into Arkansas from other states, namely, Southern Illinois, Western Kentucky, and Alabama.

A. Well, I would say that there is not a great deal of coal coming into Arkansas, no, sir, because I used to be in the coal business myself, along about 1917, just before we went into the first World War; and there was some coal came in then, but there is very little coming in at the present time, I would say. Our coal companies in Arkansas have been undergoing a very difficult time, for the past several years; as a matter of fact, the majority of them went broke, and owed the government. I know that, because I happened to be Collector of Internal Revenue, and I know how many of them owed the government money, that it could not collect.

Q. Yes, but do you mean to say, Governor, that there are not large quantities of coal moving into Arkansas at the present time from, say, southern Illinois?

A. Why, not to my knowledge, no, sir. There may be, but if there is, I would say that it is very small in quantity, as compared to our own total production.

Q. And would your answer be the same, with respect to coal coming into Arkansas from western Kentucky?

[fol. 2563] A. Oh, there is some, perhaps, coming in—or, at least, there used to be. I do not know about the situation in recent years. I have not been in touch with the coal business since about 1917.

Q. And would your answer be the same with respect to coal from Alabama coming into Arkansas, as that which you have just given me with respect to western Kentucky?

A. From the knowledge that I have, I would say that there is very little coming in from Alabama, either. That is my own judgment in the matter.

Mr. Grubbs: Thank you very much.

The Witness: You are very welcome, sir.

Chairman Aitchison: Is there further cross-examination?
Mr. McCollester: Yes.

By Mr. McCollester:

Q. Governor, in your prepared statement I note that you say that if we have a uniform classification, when the post-war period arrives, an intelligent survey may be made.

A. Yes.

Q. Are you aware of the fact, Governor, that where there are differences between the classification ratings on articles in the different classification territories, generally speaking, it is in the Western and Southern Classifications that the ratings are lower, rather than in Official?

A. Well, now, you are getting right back again to what I [fol. 2564] have stated several times before, here, and what I must state to you again, that I am not an expert, and I know nothing about the intricate details of these situations.

Q. Well, then, when you made that statement, do I understand that you had no idea as to whether a uniform classification should be achieved by increasing the classification ratings in your territory, or not?

A. Well, that, again, of course, is a matter that the experts will have to decide. I am hardly qualified to venture an opinion on that.

Q. When you consider and discuss the competitive situation, and the desire of your state to become industrialized, do you have in mind, for purposes of comparison, the state I represent, which is the state of New York?

A. I do not have the slightest conception of what your rates are as compared with our rates,—no, sir. That is getting back to that same proposition again. I simply know that our raw materials are being shipped out of our state, and we have not been privileged to manufacture them into the finished products within our state.

Q. Well, you do not know, then, do you, Governor, whether you want a uniform rate level with New York State, or not?

A. That gets back to the same question again. You will have to refer that matter to the experts.

Q. Well, Governor, are you aware of the fact that the [fol. 2565] number of persons gainfully employed in manufacturing industries in your state, over the past 10 years, has increased 10 per cent, whereas, there has been a de-

crease of approximately 10 per cent in the number gainfully employed in manufacturing industries in the State of New York?

A. No, sir.

Q. You have not looked into that?

A. No.

Q. Have you looked into any other statistics as to manufacturing development, to see how your state has compared, over the period of the past 10 years, with states in Northern Territory?

A. No, sir, I have not. I would say this, however, that of course we have been struggling very hard to try to obtain industry for our state, so that we can manufacture our raw materials into the finished products, within our own states, and avail ourselves to better advantage of our own natural resources.

Q. Well, Governor, do you know of any industry which you have failed to obtain, which you went after, which has located in New York State?

A. I am very sorry, sir, but I was not able to hear quite all of the question.

Mr. McCollester: Read it, please.

(Question read.)

[fol. 2566] A. Yes, sir—the Aluminum Company. I tried to get a plant located there, to go right along with the one at Hot Springs, manufacturing aluminum, either a fabricating plant, or a roller mill, or one thing another. But instead of coming there with a new plant, they enlarged the plant that they now have in New York.

Q. That was because they already had a plant in New York, was it not?

A. Well, I am not advised in detail as to all of the reasons that entered into their failure to establish a plant in Arkansas, but I know that they did locate in New York.

Q. Now, you also spoke about cotton, and how your cotton is shipped outside of the state of Arkansas.

A. Yes.

Q. Where does most of your cotton go?

A. That I am not able to answer you on, sir. However, I presume that it goes to the east coast, very largely. I am not advised definitely as to that, however. We are third, we rank third, in the raising of cotton. I think we will have 1,500,000 bales this year.

Q. You are not aware of the fact that there has been a tragic decline in the textile industry in the North, and a great increase in the textile industry in the South, then, are you?

A. No, sir. It has not come to Arkansas.

Q. Does your cotton go to the north now, or does it go to [fol. 2567] North Carolina?

A. That I cannot say.

Mr. McCollester: That is all; thank you.

Chairman Aitchison: Is there further cross-examination? (No response.)

Mr. Bee: I have just one question on redirect, if the Commission please.

Redirect examination.

By Mr. Bee:

Q. Governor, all that you ask is, equality of freight rates, is it not?

A. Yes.

Q. And that is the only proposition that you are advancing here?

A. Yes, sir, that is right. Let us have an equality of freight rates, and let the chips fall where they may.

Q. And if it means increasing the classification, in order to secure equality, that is what you want, is it not?

A. Yes, sir.

Q. In other words, just stating it flatly, you want equality.

A. Yes, sir.

Mr. Bee: That is all.

Chairman Aitchison: You are excused, Governor.

The Witness: Thank you, sir.

(Witness excused.)

Chairman Aitchison: Now, request has been made that [fol. 2568] Mr. Ford be heard at this time. That is out of order, of course.

Mr. Norman: If the Commission please, we have just this one industrial witness here, who has to get away, and with your permission, if there is no objection, we would like to put him on right now. He will only take a very short time.

Chairman Aitchison: Minnesota has the floor, of course. Let us first find out if it is satisfactory to Minnesota to yield to Mr. Norman to put on one witness.

Off the record.

(Discussion outside the record.)

Chairman Aitchison: On the record. You may proceed.

Mr. Norman: Call Mr. Ford.

CLARENCE FORD, JR., was sworn and testified as follows:

Mr. Norman: If the Commission please, Mr. Ford has two exhibits, that have been distributed, and also a prepared statement. With your permission, Mr. Chairman, I will ask that his exhibits be marked for identification at this time as No. 129 and 130.

(Exhibits Nos. 129 and 130, Witness Ford, marked for identification.)

Mr. Norman: I might state, for purposes of identification, that one of the exhibits, No. 130, shows in the lower right-hand corner of the cover page the words "Witness: [fol. 2569] Walter A. Richards," which have been stricken out, because that is not correct. The witness who will present the exhibit is Mr. Ford, now on the witness stand, but the exhibit was prepared when it was expected that Mr. Richards would testify. However, he is at the present time in the army, so Mr. Ford is going to present the exhibit and testify instead.

Direct examination.

By Mr. Norman:

Q. Mr. Ford, would you give your full — your address and your business to the Commission.

A. Shall I just read from the statement?

Q. Yes, sir, go ahead.

A. My name is Clarence Ford, Jr., and my residence is at Country Club Apartments, Columbus, Georgia. I am Vice President and Sales Manager of the Tom Huston Peanut Company, a Georgia corporation which has its principal offices and plant at Columbus, Georgia. The Tom Huston Peanut Company is engaged in the manufacture and sales of peanut products. Because the company is

unique in several particulars, I would like to give you a brief picture of its operations.

In the first place, our plant lies at the northern limits of the largest peanut producing belt in the United States. We operate or own shelling plant. We purchase over $1,000,000 worth of peanuts direct from the farmer as he harvests them and pay him cash upon delivery. Our manufacturing process includes a complete cycle from the raw peanuts taken from the farmer to the finished product [fol. 2570] ready for the consumer and also the consumption — practically all by products. We employ about 950 people in our plant, all of whom are natives who have been trained in our plant.

By Chairman Aitchison:

Q. What do you mean by "natives"?

A. Well, I mean by that, your Honor, people who are born and reared in that immediate vicinity.

Chairman Aitchison: Go ahead.

A. A large percentage are women to whom employment is not ordinarily available.

Because our products are semiperishable, we have our own sales organization of about 500 men who maintain a quick delivery system direct to the retail store.

Chairman Aitchison: Let me see if I understand you. Do you not customarily employ natives down there, or does a person have to be an alien before he or she is employed?

Mr. Norman: I might say, if the Commission please, that it is no different down there from what it is up around Detroit, or Chicago.

A. We happen to have large plants in our vicinity that offer employment to a vast number of people, just like they do in the North and Northwest.

Chairman Aitchison: I thought you stated it in rather peculiar fashion, and I just wanted to see if I understood you, was all.

The Witness: May I continue?

[fol. 2571] Chairman Aitchison: Go ahead.

A. (Continuing:) Our sales volume at present is at the rate of about $5,000,000 per year and our distribution is

largely confined to that area lying south of the Mason-Dixon Line and east of the Rockies.

We wanted to give you this brief picture of our business because we believe it typifies the sort of development which is essential to the South if it is to take its proper place in the economic structure of our nation.

By Chairman Aitchison:

Q. Do a lot of those commodities take class rates? If so, what are they?

Mr. Norman: They take 57 per cent of the first class rate in all territories, your Honor.

Chairman Aitchison: Well, are those rates published as class rates, or are they just 57 per cent of first class?

Mr. Norman: 57 per cent of the first class rate.

Chairman Aitchison: It is not a class rate proposition, then?

Mr. Norman: But you have to go to the classification, to get the rate, your Honor.

Chairman Aitchison: Oh, I know, but we have had that up before. If we are going to take in all of the exceptions of that character, we will never get through here.

Mr. Norman: Well, if the Commission please, we have discussed that matter to a considerable extent before, and [fol. 2572] I thought that it had been decided that it was competent to show these rates, which, while they are published as exceptions, were to have been put into the classification, but have not been as yet.

Com. Alldredge: Is the rating in the exceptions, or in the classification itself?

Mr. Norman: The rating is in the exceptions, your Honor, but the rate is a percentage of the first class rate. As far as those exceptions are concerned, as we have discussed here before, the promise was that they were going to be put into the classification, but they have not as yet been put into the classification. Now, to say that we cannot show what the situation is with respect to manufacturing industries that are producing such articles, just seems to me to close the door in our faces.

Chairman Aitchison: It seems to be only a question as to whether or not the exception is a proper one. If it were not for the exception, you would be paying still more.

Mr. Norman: Yes, and so would his competitors. But in both instances it is now 57 per cent of the first class rate, and of course, it is the difference in the first class rates that causes the discrimination. May I suggest, if the Commission please, that if this is not competent on the question of rates——

Chairman Aitchison: It would appear to me to be im-
[fol. 2573] material.

Mr. Norman: Well, I was going to say, your Honor, it may be material on the question of classification, if it is not material on the question of rates. I do insist, however, that it is material on the question of rates, because these rates should be in the classification, instead of being published the way they are, as exceptions, and that is one of the things that we want to correct.

Mr. McCollester: That might be said of all exceptions.

Chairman Aitchison: Yes.

Mr. McCollester: That they ought to be in the classification, perhaps.

Chairman Aitchison: The majority of the Commission is clearly of the view that this is not material to the question of class rates, but it may be considered as bearing upon the question of classification only.

Mr. Norman: All right. Thank you.

By Mr. Norman:

Q. Please proceed, Mr. Ford.

A. We take a raw farm product direct from the grower, completely process it with native labor and place it on the retail counter. We create a large cash crop market, we give employment to 1,450 people and we provide a finished manufactured product delivered and consumed largely within our own section of the country. Because of competitive conditions including higher freight rates, [fol. 2574] both inbound and outbound, we have not been able to expand our business to what seems to us to be the logical limits of our natural market.

There are many handicaps incident to the development of manufacturing industries in the south, such as inexperienced labor, the greater distances between consuming markets, the lower purchasing power of our people and the higher freight rates.

Our principal competition comes from the Chicago area and I am submitting as Exhibit No. 129 a map of the United States east of the Rockies.

Chairman Aitchison: Well, now, I doubt very much whether this exhibit bears on the question of classification, Mr. Norman.

Mr. Norman: We all know, your Honor, that these rates are based on the class rates.

Chairman Aitchison: Unless we can try this issue, as to the class rates, by themselves, we will never finish this investigation.

Mr. Norman: Well, if the Commission please, we know that these rates are based on the class rates; they are percentages of the class rates, and you cannot know what you are doing, when you are fixing class rates, unless you know what goes with them.

Chairman Aitchison: But changing the class rates does not necessarily mean that a rate of this sort will be [fol. 2575] changed at all. We have had evidence of that a thousand times. Take vegetables up in New York, for instance. They did not change when the Eastern class rates were changed. They just kept them on the same basis.

Mr. Norman: They would have to change the percentage.

Chairman Aitchison: No. They did not. They kept the old class rates—or kept the same percentage, applied to them.

Mr. Norman: Then they did not use the new class rates. They used the old ones.

Chairman Aitchison: They used the new class rates, but they did not apply them to the vegetables.

Mr. Norman: Well, of course, if your Honor please, the railroads in 1940 took pretty nearly everything out of the classification, and we want to show what the effect on our industry down there has been, of these rates that they took out of the classification, and said they were going to put back, and never have put back, and why there is practically nothing moving in the South on the rates that are reflected here.

Chairman Aitchison: Well, assuming that there is any change to be made, you can take your classification, and if your exception ratings are then too high, they should be reduced.

Mr. Norman: But we are undertaking to show discrimi-
[fol. 2576] nation right here, if your Honor please.

Chairman Aitchison: Do you want us to open up this investigation, and let all of these exception ratings in, after other people have come here, and found that they were not involved, and gone away?

Mr. Norman: No, I do not want you to do that.

Chairman Aitchison: Up to this time we have not admitted such evidence as this.

Mr. Norman: You have not?

Chairman Aitchison: No.

Mr. Norman: Why, if your Honor please, I have had a half a dozen witnesses along this same line.

Chairman Aitchison: Pardon me. I say, we have not admitted such evidence as this; and with respect to commodities such as paper, and so forth, the parties have been satisfied with the ruling.

Mr. Norman: Well, there may have been some that have not been admitted, but there has been a lot that has been admitted.

Chairman Aitchison: And what has been admitted, has been admitted for purposes of comparison only.

Mr. Norman: Well, that is what I am submitting this for.

Chairman Aitchison: Oh, no, you are not. You are referring specifically to the rates on peanuts, and this gentle-
[fol. 2577] man is here trying to tell us how they affect his interest.

Mr. Norman: Yes, and that was what was done in the other instances also, your Honor. There is no difference between the testimony of this witness, and the testimony of the other witnesses.

Chairman Aitchison: Yes, I think there is a great deal of difference.

Mr. Norman: Well, I do not care to argue it any further with your Honor. We will abide by your ruling.

Chairman Aitchison: Why does he not tell us what his classification is, or would be? What is his classification rating? He has not told us that yet, and you have not asked him that yet.

Mr. Norman: This witness I do not believe knows, your Honor, what his classification rating would be, but his rate is based on 57 per cent of first class.

Chairman Aitchison: 57 per cent.

Mr. Norman: His published rate is 57 per cent of the first class rate in all territories.

Chairman Aitchison: They have a lot of commodity rates down there, and they have classification ratings also. Now, we do not know as yet which this is, on these peanuts.

Mr. Norman: This witness does not ship peanuts, your Honor. He ships candy, peanut candy.

[fol. 2578] Chairman Aitchison: Well, the witness has not told us as yet what his commodity is.

Mr. Norman: He is just coming to that now.

Com. Alldredge: Where does he get his candy rate?

Mr. Norman: That is the rate that we were just talking about, your Honor. It is an exception rating, made 57 per cent of the first class rate.

Com. Alldredge: In all territories?

Mr. Norman: I think that is correct, yes, sir. Is that true, Mr. Hart?

Mr. Hart: Yes, sir, that is correct; stated as a class rate, though, in Official Territory.

Mr. Norman: How is that again?

Mr. Hart: Published as a class rate, by exception to the level of the class rates in Official Territory.

Com. Alldredge: You mean, it is in the exceptions.

Mr. Hart: It is in the exceptions, yes, sir. It is published as Class-57.

Mr. Norman: Well, then, your Honor, is it your ruling that the witness cannot proceed, and that his exhibit will not be accepted?

Chairman Aitchison: Well, let us take a look at the exhibit, before we proceed further.

Mr. Norman: The map exhibit shows the line where he meets the Chicago rate.

[fol. 2579] Chairman Aitchison: Is that what he was referring to?

Mr. Norman: Yes.

Chairman Aitchison: Exhibit 129.

Mr. Norman: Yes.

Chairman Aitchison: It is self-explanatory, is it not?

The Witness: The map?

Chairman Aitchison: Yes, taken in connection with the legend at the bottom.

The Witness: Yes.

Mr. Norman: I would say that it is, your Honor.

Chairman Aitchison: Without objection, Exhibit 129 is received.

(Exhibit No. 129, Witness Ford, received in evidence.)

By Mr. Norman:

Q. You may proceed, then, I take it, with your statement, Mr. Ford.

A. As an example, the distance from Columbus to Sherman, Texas, is 766 miles, while the distance from Chicago is 840 miles. The present rate to Sherman from Columbus is $1.42 against a rate of $1.39 from Chicago or a difference of $.03 in favor of Chicago. The rates from Chicago and Columbus to Nashville are identical, although the distance from Chicago is 76 miles greater than the distance from Columbus. The rate from Chicago to Rocky Mount, North Carolina, is $1.05 with a distance of 916 miles as compared with a rate of $1.04 from Columbus with a distance of 555 miles.

[fol. 2580] I am now submitting Exhibit No. 130 for identification, consisting of eight pages.

By Chairman Aitchison:

Q. These rates of which you have just spoken, from Chicago: what are they, class rates, commodity rates, or what—do you know?

A. I am not in a position to answer that question, no, Mr. Chairman.

Chairman Aitchison: Who prepared this exhibit?

Mr. Norman: I was just going to ask the witness that question myself, your Honor.

By Mr. Norman:

Q. Mr. Ford, who prepared this exhibit?

A. This exhibit, and the statement, were prepared by our traffic manager—or perhaps I should say, our former traffic manager.

Q. In conjunction with Mr. Hart?

A. Yes, sir.

Q. Then Mr. Hart can answer questions with respect to the rates shown therein, can he?

A. I am very sure that he can, yes, sir.

Q. All right. Proceed.

A. Page 1 of this exhibit shows comparison of the rates and distances from Columbus and Chicago to the points along the line shown on the map in the exhibit just previously introduced.

Pages 2 and 3 show the detail of shipments of candy and [fol. 2581] peanuts from Columbus to Official territory during a three-day test period as compared with the rates and charges which would result under the basis of rates applicable on similar commodities between points within Official territory.

Pages 4 to 7, inclusive, show the detail of shipment of candy and salted peanuts from Columbus to destinations in the Southeastern territories during the same period, together with the charges paid, and those which would result under the Official basis.

On page 8 is shown for ready reference the rates upon raw peanuts from the principal peanut markets in Georgia to Columbus and to Chicago as well as the rates on syrup from principal shipping points to Chicago and Columbus.

In order to determine the effect of the freight rates on outbound shipments, an analysis was made of all shipments for a three-day period, March 9, 10 and 11, 1942. As there is very little, if any, seasonal fluctuation in the shipments made by our plant the days selected were considered as reasonably typical of the entire year's operation.

The analysis disclosed a total of 340 separate shipments, of which number 269 included bakery goods, such as peanutbutter crackers, etc., while the remaining 71 shipments consisted exclusively of candy and salted peanuts.

[fol. 2582] *Page 1 of this exhibit shows comparison of the rates and distances from Columbus and Chicago to the points along the line shown on the map in the exhibit just previously introduced. Page 2 and page 3 show the detail of shipments of candy and peanuts from Columbus to Official territory during a three day test period as compared with the rates and charges which would result under the basis of rates applicable on similar commodities between points within Official territory.*

Pages 4 to 7 inclusive, show the detail of shipment of candy and salted peanuts from Columbus to destinations in the Southeastern territories during the same period, together with the charges paid, and those which would

result under the Official basis. On page 8 is shown for ready reference the rates upon raw peanuts from the principal peanut markets in Georgia to Columbus and to Chicago as well as the rates on syrup from principal shipping points to Chicago and Columbus. In order to determine the effect of the freight rates on outbound shipments, an analysis was made of all shipments for a three day period, March 9, 10 and 11, 1942. As there is very little, if any seasonal fluctuation in the shipments made by our plant the days selected were considered as reasonably typical of the entire year's operation.

The analysis disclosed a total of 340 separate shipments of which number 269 included bakery goods, such as peanut [fol. 2583] *butter crackers, etc., while the remaining 71 shipments consisted exclusively of candy and salted peanuts.*

Chairman Aitchison: Let me interrupt at this point. On sheet 8 you show truck-barge rates.

Mr. Norman: Sheet 8?

Chairman Aitchison: Yes.

Mr. Norman: I suppose that is the way part of the movement moves. Can you answer that, Mr. Hart?

Mr. Hart: Most of the movement between our district and Georgia is via barge-rail routes through Guntersville. That is the way it moves. We just show the lower rate there so you will have it.

Chairman Aitchison: This shows truck-barge rates.

Mr. Hart: Well, that is the way it moves.

Chairman Aitchison: Peanuts usually move on a commodity rate, do they not?

Mr. Hart: It is a commodity rate.

Chairman Aitchison: How about corn syrup?

Mr. Hart: Corn syrup moves on a commodity rate.

By Mr. Norman:

Q. Go ahead.

A. While in some cases the rates upon the bakery goods items are the same as those upon candy and peanuts, to other territories a higher basis applies on the bakery goods, and this is particularly true of Official and Western Trunk Line territories. The shipments for the three day period [fol. 2584] consisted of 150,806 pounds of candy and peanuts, with a freight charge of $1,880.88, while the bakery products totaled 67,443 pounds with a freight charge of

$729.63. The weight of the shipments to destinations in Southern territory approximated 65,000 pounds and to Official territory 8,000 pounds, the remaining being to Southwest and Western Trunk Line territories, with the exception of four shipments to Transcontinental territory in the states of New Mexico and Utah. The aggregate freight charge on the outbound shipments for the three day period amounted to $2,610.61. Assuming, as we believe, that the three days for which shipments were analyzed are typical, and that there are 300 working days in the year, the aggregate annual outbound freight charge would be $261,051.00. This figure is equivalent to 38.8 per cent of the total payroll of the Tom Huston Peanut Company. Those figures do not include freight charges on inbound materials used in our manufacturing processes.

The total freight charges paid on shipments to Southeast and Official territories on the three day shipments amounted to $1,054.87, or approximately $105,487.00 annually. Had the same basis of rates been applicable within the Southeast and from the Southeast to Official territory as applies on shipments moving wholly within Official territory the freight charge on the involved shipments would have been $788.34, or a saving of $268.53, and which saving [fol. 2585] on an annual basis would be $26,853.00.

Should the same scale of rates as applies in Official territory be extended to shipments from the Southeast into the Southwest and Western Trunk Line territory the saving would, of course, be materially greater. The difference between the freight charges actually paid and those which would have accrued on basis of the Official territory level on the shipments into the Southeast and into Official territory of $26,853.00 is equivalent to 4 per cent of the total annual payroll or to 3.1 per cent upon the capital stock of the corporation.

Mr. Norman: We offer in evidence Exhibit No. 130, if the Chairman please.

Chairman Aitchison: Is there any objection to the receipt in evidence of Exhibit No. 130?

Mr. McCollester: I object as irrelevant and immaterial.

Chairman Aitchison: We will let it go in for what it is worth.

(Exhibit 130, Witness Ford, received in evidence.)

Chairman Aitchison: Mr. Norman, if we are going to go into every collateral issue here and take testimony with respect to commodity rates, barge rates and truck rates in this proceeding, we are never going to get through.

Mr. Norman: Mr. Chairman, I realize that is true, but [fol. 2586] here is an industry that is shipping on what normally would be a class rate basis.

Chairman Aitchison: Why don't you tell us what class they normally take? He has not done that yet.

Mr. Norman: Will you state what class——

Chairman Aitchison: I think Mr. Hart can put this in a paragraph and tell us the whole thing.

Mr. Hart: It is already in the record, Mr. Commissioner, on sheet 2 of section 3-B of my Exhibit 88. That shows the exception ratings on candy, both carload and less, in the different territories and what the classification ratings are. It so happens that candy, less than carload, is rated second class or 85 per cent of first and the exceptions are 57, so the difference between the two rate levels is identical, either with the exception rating or the classification rating. It does not make any difference which you take.

Chairman Aitchison: Do we have that 57 per cent basis in all three territories?

Mr. Hart: What is that, Mr. Chairman?

Chairman Aitchison: Is that 57 per cent basis applied in all territories?

Mr. Hart: That applies uniformly east of the Rockies interterritorially and intraterritorially.

Mr. McCollester: Is that on candy, Mr. Hart?

Mr. Hart: Candy.

[fol. 2587] Mr. McCollester: Not on peanuts or some of these other commodities?

Mr. Hart: No. The peanut and glucose comparisons are merely put in there to compare one rate with another. There is no claim made about those rates at all. They are merely put in there to show comparisons as between the raw material rates. They are not on the class basis, either peanuts or glucose. They are merely put in there for comparative purposes. If he had the classification basis on candy, he would be at the same disadvantage that he is with class 57, both being 138 per cent of the other, so far as Official and Southern territories are concerned.

Mr. McCollester: Pages 4 to 7 of Exhibit No. 30 reflecting the results of these test shipments are headed "Candy

and Peanuts." That means they show the rates without any separation, do they not?

Chairman Aitchison: Salted peanuts.

Mr. McCollester: Well, are salted peanuts candy?

Mr. Hart: Salted peanuts are in the candy group.

Mr. McCollester: I see.

Mr. Norman: You may ask him.

Chairman Aitchison: Cross examine.

Mr. Grubb: I have one or two questions, Mr. Chairman.

Chairman Aitchison: Mr. Grubbs.

Cross-examination.

[fol. 2588] By Mr. Grubbs:

Q. Mr. Ford, when was your company organized and established? When did it begin business?

A. Our company was organized 17 years ago.

Q. Now, you say your present sales volume is at the rate of about $5,000,000 per year. What was it, say, five years ago?

A. I do not have those figures before me, sir. I could not quote it.

Q. Is it not true that your company has grown steadily and rapidly?

A. Our company has made progress, yes, sir.

Q. From year to year?

A. We have had ups and downs like a lot of other companies.

Q. But generally you have been moving forward?

A. We have been making some progress, yes.

Q. Do you have any figures with you that indicate your volume other than the volume you show at present?

A. No, sir.

Q. Your statement was to the effect that your distribution is largely confined to the east and south of the Mason-Dixon line and east of the Rockies. Do you have any figures with you on your distribution?

A. No, sir.

Q. Did you make any investigation as to what proportion of your movement is to the south?

A. No, sir.

[fol. 2589] Q. And what proportion of it is to the southwest?

A. We have our information. It was not put in this report, sir. I do not have it. I do not have it available at my finger tips.

Q. You do not have the figures, I take it, also for any other territory?

A. Not in this report.

Q. Well, do you have them with you?

A. No, sir.

Q. Are you able to give them to us?

A. I am not able to give them to you offhand.

Q. You say that your business typifies the sort of development that is essential to the south. Are you undertaking to speak for anybody other than your company at this time?

A. Well, being in the heart of the Spanish peanut belt, we have encouraged the farmers to raise more peanuts——

Q. My question is, are you speaking for anybody else other than your own company at this time?

A. No. I am speaking solely for the Tom Huston Peanut Company.

Mr. Grubbs: Yes, sir.

By Mr. Grubbs:

Q. Now, you say your principal competitor is in Chicago?

A. No, I do not think I said that. Our principal competition. We have more than one competitor.

[fol. 2590] Q. Where else are they located besides Chicago?

A. Well, from the way it seems at times, our competition is all over the United States.

Q. Why did you mention Chicago principally?

A. Because our larger competitors are in that area.

Q. Now your competitiors who are located in Chicago are compelled to get their raw peanuts from your back door, are they not?

A. No, sir, not necessarily, because they use primarily a Virginia or Jumbo peanut.

Q. Do they use Georgia peanuts?

A. Some little, but to a very small extent.

Q. Now, in your Exhibit No. 130 you made a comparison on page 8 of the rates on corn syrup to Chicago and to Columbus from various producing points. Where do you get your syrup, your glucose?

A. Here is a very extensive order we got from Decatur, Illinois.

Q. Where do you get it generally?

A. Decatur, St. Louis, Cedar Rapids, Iowa, Clinton, Iowa, and Roby, Indiana.

Q. Do you get any in the south?

A. Not to my knowledge.

Q. Would you know if you did?

A. I would not know that, because, frankly, that comes [fol. 2591] under the purchasing department.

Q. You do not know where the predominant volume of glucose comes from, to your plant?

A. My understanding is that it comes from points that I have mentioned because I have the amount of tonnage we have bought here and I think that that represents a large part of our requirements.

Q. You have there a telegram that tells you the places in Official territory where you get your requirements, am I correct about that?

A. It mentions where we bought glucose and sweetose, principally.

Q. Is it confined to points in Official territory?

A. It is confined to where we buy our products. I do not know whether it is Official or not. I asked for this information and they sent it to me.

Q. What did you ask for?

A. I asked them to send me figures on which our glucose and sweetose comes from.

Q. What did they tell you?

A. That is the reply.

Q. You have given me the essence of it?

A. Yes, sir. I can name the amounts and the points if you are interested in hearing them.

Q. Very well.

[fol. 2592] A. The following are figures on glucose received from May 15 through October 23 of this year: From Decatur, Illinois, 191,600 pounds, value $5,971.03; St. Louis, Missouri, 192,740 pounds, value $6,001.08; Pekin, Illinois, 190,840 pounds, value $5,947.33; Cedar Rapids, 93,569 pounds, value $3,019.16; Clinton, Iowa, 190,780 pounds, value $5,937,27; Roby, Indiana, 96,060 pounds, value $2,988.79. Sweetose: From Decatur, Illinois, 269,075 pounds, value $10,019.05. Nectose: From Cedar Rapids, Iowa, 91,481 pounds, value $3,398.19.

Chairman Aitchison: Just a minute.
The Witness: Yes.
Chairman Aitchison: Is there much more of that?
The Witness: No, sir. Just one more line.
Chairman Aitchison: All right.
The Witness: Chocolate coating from Hershey, Pennsylvania, 72,000 pounds, value $10,988.88.

By Mr. Grubbs:

Q. Are those the sole ingredients that you use in your products, namely, glucose, sweetose, nectose and chocolate coating?

A. Sugar, of course, is not included there. They are some of the principal ingredients we use in the manufacture of our products.

Q. Sugar comes from the south, does it?

A. Yes. We get our sugar largely from Savannah, Georgia, and from New Orleans.

[fol. 2593] Q. You have shown on this same page, page 8 of your Exhibit No. 130, a rate into Columbus compared with a rate into Chicago on the raw peanuts. Do you know how your movements into Columbus take place, whether they move by rail or not?

A. I could not answer that question.

Q. With respect to your distribution on your finished products out of Columbus, is that very largely by rail or very largely by truck?

A. Principally by rail.

Q. Did you introduce this map (indicating)?

A. Yes, sir.

Q. You show a line here that indicated, or a line where you felt you were restricted, where your distribution is restricted. Is that what that is intended to portray?

A. That shows the point at which the less than carload rates on candy and salted peanuts are the same, or within 5 per cent of the same, from both Columbus, Georgia, and Chicago, Illinois.

Q. You do not mean to represent that you do not move your products generally north of that line you have shown there, do you?

A. We do go beyond that line.

Q. Yes. The fact is, you move your products all over this country, do you not?

A. No, sir.

[fol. 2594] Q. What territories don't you move it into?

A. We are not in Maine. We are not in New Hampshire. We are not in Vermont. We are not in Massachusetts.

Mr. Norman: Can't you give a very general answer? Can you not just say, generally speaking, you are not in that Northeastern territory?

The Witness: That is correct, sir.

Mr. Grubbs: That is all, thank you.

Chairman Aitchison: Are there any other questions of this witness? (No response.) Apparently not. You are excused.

(Witness excused.)

Chairman Aitchison: Mr. Townsend is next.

FRANK B. TOWNSEND was sworn and testified as follows:

Direct examination:

The Witness: My name is Frank B. Townsend. I reside in Minneapolis, Minnesota. I appear here representing the Minneapolis Traffic Association both as a practitioner before this Commission and representing that Association as a witness. I also appear as a witness for the St. Paul Association of Commerce, that organization being a party of record in this proceeding, the appearance having been entered at the St. Louis hearing by Mr. E. H. Berg. I have been requested by Mr. Berg who is ill at the present time, [fol. 2595] having sustained a very serious operation, to present an exhibit he prepared for this case. I have examined the exhibit and before it was prepared I discussed the general nature of the presentation to be made. I have since checked and verified the exhibit and it is substantially correct to the best of my knowledge and belief. I would like to have Mr. Berg's exhibit marked for identification at this time.

Chairman Aitchison: It may be marked for identification as Exhibit No. 131.

(Exhibit 131, Witness Townsend, marked for identification.)

The Witness: I have two other exhibits. The first one has a large gray cover and may be distinguished from the second one because my name as witness does not appear on the first one. The first one begins with the item of population by states from 1870 to 1940. I would like to have that exhibit marked as No. 132.

Chairman Aitchison: It may be so marked.

(Exhibit 132, Witness Townsend, marked for identification.)

The Witness: The second exhibit, prepared since the Indianapolis hearing, copies of which were distributed upon my arrival here at Columbus, is prepared largely for the purpose of reducing the time of the oral testimony. It contains numerous statements and also rate calculations which [fol. 2596] I prepared in such a way that it would take a minimum amount of time to explain them, and had I attempted to do this from the oral testimony, it would have taken considerable time.

Chairman Aitchison: That exhibit may be marked for identification as Exhibit No. 133.

(Exhibit 133, Witness Townsend, marked for identification.)

The Witness: The Minneapolis Traffic Association is an organization maintained by the Chamber of Commerce and the Minneapolis Civic & Commerce Association, the Chamber of Commerce at Minneapolis being our grain and milling trade organization. The Minneapolis Traffic Association represents all of the business interests of the City of Minneapolis in all transportation and traffic matters. At Minneapolis we have about 2,000 members that use the service of the Minneapolis Traffic Association. These members in many instances operate throughout the United States, having branch houses or branch elevators or mills or other industries throughout the United States. For example, we have the Gamble Skogmo Stores who are retail dealers of automotive supplies and sporting goods, who have some 900 stores throughout the United States. We have elevator companies that operate in practically every grain market in the world such as the Cargill Grain Company and the Peavey Company. I mention that only to indicate that our interest in this proceeding is not confined to Minneapolis

[fol. 2597] alone, because we have important industries throughout this Northwest territory in particular, in some instances more extensive.

The St. Paul Association of Commerce is the civic organization of that community, and while I do not remember that Mr. Berg made any statement at the previous hearings, I may just state briefly that Mr. Berg is Traffic Commissioner for the St. Paul Association of Commerce and handles traffic and transportation matters for business interests of St. Paul and some of the surrounding communities, such as South St. Paul and North St. Paul and Minnesota Transfer which is politically a part of Minneapolis but designated as a separate station in the tariffs. I might also say that Minnesota Transfer as a separate station is partly within the political limits of the City of Minneapolis.

The statistics of record here show the population not only by states but by cities, and they need no other explanation except that I want to refer to page 1 of Exhibit 132. I have been connected with transportation in these western states for 51 years with the exception of a year and a half spent in Cuba in the Spanish-American war where I served as Regimental Sergeant Major in the 49th Iowa Volunteers. I have been continuously in the transportation service either with railroads or industries, the first 35 years with railroads, having worked myself up from the lowly position of [fol. 2598] office boy or something like that, a little higher than that. I was vice president of a railroad when the sheriff came and got it, and I have had numerous positions since, including chief traffic officer for the receiver.

Chairman Aitchison: You were able to get out just a few minutes ahead of the sheriff?

The Witness: Yes, I went out the other door as he came in. As to the interests of this Northwest territory, and in particular the Twin Cities—I refer to the Twin Cities as including St. Paul and Minneapolis—where we have collectively a population of considerably over a million, with many industries, I want to indicate just as briefly as I can here, why we are here and what we are trying to accomplish. I might say parenthetically that it does not diverge except in the phraseology from the same kind of presentation I have made previously with respect to class rates to and from Minneapolis and this Northwest territory in the original 17,000 Part 2 class rate investigation and in the investi-

gation under I. & S. Docket 3662 which involved the rail-lake-rail class rates.

Minneapolis developed industrially years ago due to favorable freight rates and it had favorable freight rates not because industries sought them, but because the railroads gave them to the market because there was a highly competitive situation. Without going into the detail of the explanation of these exhibits, I merely [fol. 2599] want to cite from Exhibit 133, at page 1, what the class rates were that applied between Chicago and the Twin Cities on June 14, 1890, when we had the so-called 40-cent scale, 40 cents first class; those rates have been increased, and as indicated there, including the March 18, 1942, increases, the first class rate is now $1.47 representing an increase of 267½ per cent. The increase on the lower classes was considerably greater. The fourth class increase was from 17 to 64 cents, an increase of 367.5 per cent.

Now, that original scale of rates, the 40-cent scale of rates, was established years ago when we had a highly competitive situation, and was due to the influence of the Soo Line Railroad which was built by Minneapolis capital and extended to Sault Ste. Marie, Michigan. It was afterwards extended into the Northwest wheat fields, but originally that line was built for the purpose of getting favorable rates and getting the flour from Minneapolis mills into the eastern market. I mention it because it is not a case where the shippers have banded together to secure rates and they have not had the influence of large tonnage that is sometimes reflected in some of our rate adjustments, and has been in the past, such as oil, packinghouse products and sometimes iron and steel. The industry grew up under this basis of rates, and I only mention here the rates between Chicago and the Twin Cities.

[fol. 2600] Now if you will turn to page A-1 of Exhibit 132, you will find another history of these class rates between Chicago and the Twin Cities beginning with June 25, 1918, when this scale of rates using the first class rate, for example, had increased from the 40 cent scale to the 60 cent scale. There you will see how those rates progressed over a period of years and what they are today including the so-called Ex Parte 148 increase. These rates reflect to some extent all of our commodity and class rates that would apply upon the products used in manufacturing at the Twin Cities and upon the products of our manufacturing industries not including,

of course, flour and linseed meal and linseed oil or direct products of agriculture.

Going back to this population showing at page 1 of Exhibit No. 132, you will notice that our population increased in the State of Minnesota, and that the increases from 1870, the favorable and first increases were due to the development of agriculture in our territory. When agriculture was fairly well developed we still continued to increase up until 1920. With General Order No. 25 of the Director General of Railroads promulgated during the time that the carriers were in the hands of the Federal Government, our very heavy freight increases began. Our increase in population—I am speaking now of Minnesota as a whole—has not progressed since 1920 to the same extent, relatively, as the increase in the United States, or the increase in the more favorably [fol. 2601] located states. There are exceptions to that, where, for example, in some of these eastern states, their population has not shown a very substantial increase. For example, in the continental United States the increase in population from 1930 was 122,775,000 to, in 1940, 131,409,000; but our population during that same period for the State of Minnesota increased only 200,000.

Now, that is due to the fact we had reached maximum agricultural development in Minnesota. There may be in the future, if prices are sustained, cut-over lands devoted to agriculture, but the agricultural development is going to be limited; that is any improvement in it or increase in it is going to be limited. It may be improved by the introduction of new crops such as soy beans which we are now considering on the extension of the soy bean products scale and because of the favorable price for flaxseed, Minnesota is the leading state in the Union producing flaxseed which furnishes the linseed oil. Our production and the production of the four northwest states reflected in these exhibits is necessary because in this country over a period of years we have produced only 50 per cent of the flaxseed required and the balance has been imported from South America and India.

What we are trying to secure for Minnesota as a whole, and I speak particularly for the situation at the Twin Cities, is an adjustment of rates that will, in so far as possible, [fol. 2602] remove our present disadvantage in competing with industry in the more favored territory; I mean, the territory where they have large consuming centers and

large populations, that being what we term here as Official territory extending from Illinois through to the Atlantic Coast and north of the Ohio and Potomac Rivers. It is that territory we must reach with a very large per cent of our industry. We have lost industry continually since 1920. It would be unnecessary to recite in detail the names of those industries, but I may say they have moved, all of them that left the City of Minneapolis, to the territory known as Official territory. They have moved to Chicago, Illinois, to Freeport, Illinois, and Peoria, Illinois. They have moved into points in Ohio and Indiana. They have moved because of the disadvantage in freight rates at Minneapolis. Of course, there are other factors affecting the location of industry. Sometimes it is labor. But all of these factors are considered. I have analyzed these very carefully over a period of years as the industries moved away. One moved only in the last few weeks, and one of the controlling factors in determining upon the new location was the freight rate situation.

Now, we do not expect that this Commission can or should try to equalize the disadvantage of location. Unfortunately, as a manufacturing center, we must draw a large part of the material into our manufacture from Chicago and [fol. 2603] the Chicago rate territory and from east of there. That includes iron and steel and all the non-ferrous metals that enter into manufacture, and it includes practically every article of manufacture such as screws, bolts and nuts, hinges and everything that enters into manufacture. Unfortunately, we haul that material from the East and then to Chicago, for example, from Minneapolis. We do not expect this Commission to equalize that disadvantage. If it is a disadvantage of location. However, after having contributed as we do in a substantial way to the progress and earnings of the rail carriers serving that territory by giving them a double haul on an immense amount of traffic, and one that we can readily increase in succeeding years with a favorable rate adjustment, we do think that this discrimination, if I may term it as such, or this disadvantage we are suffering from because we are paying these high rates——

Chairman Aitchison: What high rates, class rates, commodity rates or what?

The Witness: High class rates, Mr. Chairman, if you please.

Chairman Aitchison: You have the official basis, have you not?

The Witness: Not on the rates. For example, for 400 miles our rate from Chicago to Minneapolis, the first class rate, is now $1.47. Under the so-called official classification scale the 400 mile rate is $1.09 plus 5 per cent increase, [fol. 2604] making $1.15. We are at a very substantial disadvantage. We have the Official classification applying in a very peculiar way. We have it between the Official territory east of Chicago and Minneapolis applying in both directions, but when you come from Chicago or Milwaukee or Peoria or St. Louis, the Western classification applies. I expect to mention that if time permits. It is just one of the disadvantages of a rate adjustment that has grown out of the action of the carriers, first, and second, the application of the Commission's decisions in these various cases.

Mr. McConnaughy: Mr. Townsend, may I interrupt you right there?

The Witness: Yes.

Mr. McConnaughy: I do not quite understand your statement about the population by states on page 1, Minnesota suffering by comparison to so-called Official territory.

By Mr. McConnaughy:

Q. Has not Minnesota, since 1930, grown percentagewise substantially more than most of the states in Eastern territory according to your chart?

A. I would not say it has grown substantially more. I am comparing it with the nation as a whole. As I endeavored to indicate, our population from 1930 to 1940 increased only 222,000 and the population of the United States increased 9,000,000. The industry loss at Minneapolis began right after 1920, when these industries started moving away [fol. 2605] from Minneapolis. However, I think it is a fact that from these figures here you could pick out some particular state, for instance, Ohio, where your population has been almost static from 1930 to 1940.

Q. Practically all of Official territory has been, has it not?

A. Yes. I think they have probably reached the saturation point which is why their population did not improve, but we know what affected our situation. We began to lose these important industries, some such important industries

as the Caterpillar Tractor Company, which is one of the largest industries in the world, now located at Peoria, Illinois.

Reverting to this freight rate situation, as I have indicated and endeavored to state, this was not an adjustment that the railroads were sandbagged into. This was an adjustment they started voluntarily themselves under a highly competitive situation. We had favorable rates between Minneapolis and Chicago and they were reflected in our rates to and from Official classification territory generally, this 40 cent scale of class rates that originally applied between Chicago and the Twin Cities being the western factor of our rate from New York to the Twin Cities. As the exhibits of record here will show, that was at one time $1.15, first class, and that rate is now increased over 200 per cent. In the same way, originally we had the Official classification between Minneapolis and Official terri- [fol. 2606] tory to this extent: We had it between Minneapolis and Central Freight Association territory; we did not have it between Minneapolis and Trunk Line territory, but we had it westbound from Trunk Line territory to Minneapolis. That was a complicated situation which was corrected in the second decision of the Class Rate case.

I mention this with respect to how these things developed. The first investigation in Docket 17,000, Part 2, was a very extensive investigation, but the public was new to these general investigations made under the Hoch-Smith resolution. The facts were presented, but the importance of preserving the status quo or nearly so was not stressed; and unfortunately we lost very severally in the first scale of rates that were prescribed as a result of the 17,000, Part 2, decision. We lost in this way: Our rates were increased very much. That was reflected in a very substantial increase in our Minnesota intrastate rates which had always been more favorable than the intrastate rates in most of the Western states. Those rates had been published years ago, about 1911, and were subjected to attack by the carriers as being confiscatory, but were sustained by the Supreme Court of the United States as being compensatory. That same scale of rates continued until we got into the 17,000, Part 2, scale, and there, for the purpose of harmonizing the state adjustment with the interstate rates, we accepted the higher scale of rates which Mr. Radke explained on the [fol. 2607] stand here yesterday.

The other unfortunate part of the first decision in the so-called Western Trunk Line class rate case was that the Official classification was taken away from us. Our rates between Eastern territory, westbound from New York, Pittsburgh, Buffalo and all of that important territory, which had always been subject to the Official classification as far back as I can remember, and that is some time, were put on the Western classification basis. Then we had a rehearing in the so-called Western Trunk Line class rate case as a result of which the Official classification was restored to us between recognized Official territory and the Twin Cities. It also applied to and from Duluth and the territory described in the tariffs as the so-called Northwest territory, and that is also referred to in the decision governing those cases. That was some substantial relief, but it left with this very high scale of rates. At that time, after the Eastern class rate investigation, the 400 mile first class rate under the Eastern investigation was 99 cents, and our rate based on the so-called laminated scale, using the so-called Western Trunk Line basic scale, between Chicago and Madison, Wisconsin, then progressing into the so-called zone 1 scale from Madison up to Minneapolis and St. Paul, gave us a rate of $1.26. In other words, we were 27 per cent higher on the first class rate than our important competitors shipping to Chicago. Of course, it [fol. 2608] was reflected in our rates all through, to and from, Eastern territory.

That, however, was not the most serious situation about it. One of the more serious situations about it was that the Official classification scale had 4th class rates at 50 per cent of 1st class, while in the Western territory we were paying 55 per cent 1st class. On the important less than carload traffic moving under class rates, that moves between Minneapolis and Chicago, we were handicapped to the extent of that 5 per cent compounded on a scale that was already 27 per cent too high for that 400 mile haul. It is that condition we seek to relieve.

Over a period of years we have been on the same border of the Official classification scale as has St. Louis, Davenport, Keokuk, Burlington and all of the Mississippi River cities until you get above Dubuque. The traffic transportation conditions between the Twin Cities and Chicago and Milwaukee are more favorable than any territory in the

entire western part of the United States, and generally are more favorable than all of the Eastern territory. We feel in view of those facts that we should have the Official classification scale because it is necessary if we are going to continue to develop and expand industrially. We have had—you might say we have had this thing given to us, we developed under it, and it was partially taken away in the [fol. 2609] first case; we got some of it back in the second class rate decision, but we are here today to say that as far as the rates from and to the Twin Cities are concerned—and I may say parenthetically that includes Duluth; Mr. Smith was speaking about Duluth—we feel that everything that may be considered as justifying rates or determining the future of this great adjustment, justifies putting us into the Official classification group and giving us the Official classification scale, the same scale of rates that would apply between Pittsburgh and Chicago, if you please. We cannot ask for more than that, but reasonably we appear to be entitled to that basis upon a study of the conditions which have prevailed in the past.

Now, I have assembled in these exhibits a great deal of statistical data. It is data that is self-explanatory. Instead of laboriously going through the exhibits I am going to submit them very largely as they stand. However, I want to call attention to a few of the things that I think are worthy of consideration in this particular case.

[fol. 2610] In the so-called Western Trunk Line Class Rate case, rates were prescribed that applied between the Official Territory, including everything from New York west to the Illinois-Indiana state line, and the Twin Cities, at Minneapolis, and the Commission found what the rate should be specifically, but we don't get that rate in many instances, and I have tried to illustrate an example of it, just a brief example of it, at the last page, being page 51 of Exhibit 133.

Here is an unfortunate situation that I think the carriers should have given us some relief from. They never did, although it has been the subject of numerous letters and correspondence. There wasn't enough involved to warrant burdening the Interstate Commerce Commission with a formal complaint. The individual shipper that sustained these increases in rates, due to this minimum rate scale as explained at page 51 of this Exhibit 133, has paid more than

$150 or $200 a year excess charges, but that is just one of the burdens we want to get back.

Now, I will explain how those things happen. For instance, the Commission prescribed a scale of rates and the normal scale from Greencastle, Indiana, to Minneapolis, would be $1.70 or $1.75, first class, and the minimum scale is only $1.67. The tariff provides both the normal scale and the minimum scale. Now, the minimum scale comes in [fol. 2611] operation when we get into the difference between the fourth class, because this minimum scale, which is 92 cents fourth class from Greencastle, Indiana, to Minneapolis, is subject to the Western Classification. The normal scale of 88 cents is subject to Official Classification.

I only give those two examples. There are literally thousands of them in the tariff referred to in the case. Now, that comes about in this way: The carriers were granted all the Fourth Section relief they sought in these cases, but they didn't ask Fourth Section relief to cover this particular situation, and therefore we have this anomalous situation, where the Commission has prescribed the Official Classification and specific rates, but yet we pay higher rates and pay the Western Classification in these specific instances where these differences occur.

Now, there are other situations, other than the ones brought about by the difference between 55 per cent of first class for fourth class in the Western and 50 per cent of first class for fourth class in the Official. They are brought about because these minimum scales are applied over circuitous routes.

By Chairman Aitchison:

Q. Is the mileage figured on the circuity?

A. Beg your pardon?

Q. Is the mileage figured on the circuity?

[fol. 2612] A. No, it is just an arbitrary action of the carrier. I will explain how they do it. For instance, take an example from some point in Michigan. It might be Bay City, it might be Detroit. Normally, the route would be either across Lake Michigan, using the car ferry route, or through Chicago. In extreme cases it might be through Peoria, Illinois; but the carrier dragged those rates down to, say, Vincennes, and to get the maximum scale today, would pay the Vincennes rate, because they want to use

these circuitous routes to get to Minneapolis. It is a burdensome thing that ought not to have occurred. It should have been condemned and ". I hadn't been so busy the last few years, I would have tried to correct it in a formal proceeding. But I only mention it as indicating the rather complexity of this thing we have to contend with.

We have in our office four rate clerks, and I think they are probably the best rate clerks there are in the country, barring a few that are getting so old I can't use them; but we have three trunk line telephones and those men are quoting rates continuously from 8 o'clock in the morning to 4 o'clock in the afternoon and often after that. You would think it was a simple matter to look up the rate, say, from Hamilton, Ohio, to Minneapolis, or in the reverse direction, but it takes an examination of several tariffs to find the rate. You don't have much trouble, you pick up one tariff and you find the rate specifically shown there. [fol. 2613] If you study this a little further, you find it has got a minimum rate scale and you have got to figure that in and there are numerous complications. We have many instances in our office where it takes an expert—I say experts because these boys are experts—I don't attempt to do it—where it takes these boys from half an hour to three-quarters of an hour to figure a single rate. It is a burdensome situation.

Q. Mr. Townsend, you have been talking largely about the rates between Minneapolis and St. Paul and points within Official Territory, haven't you?

A. Yes.

Q. Is the Official Classification, in your judgment, one which has a sufficient number of classes and is flexible enough to permit the use of it in the state of Minnesota and for distances west of the Mississippi River into the state of Iowa, as has been suggested? What is your feeling on that?

A. I am firmly convinced that the Official Classification or any uniform classification is sufficiently flexible in itself, considering, of course——

Q. I didn't get that.

A. You asked if the Official Classification was flexible. I think the Official Classification is flexible enough, but consideration must be given to the fact that outside of the classification itself, there are these column ratings, per- [fol. 2614] centages of class rates that apply on numerous

commodities that are below sixth class, and of course we would have to have some treatment in the Western Territory to take care of our class E commodities. We would have to have some treatment in the Western Territory to take care of possibly B, C, D and E, but those commodities more or less generally are getting away from the classification, are getting into commodity rates, and in many instances the columns are almost obsolete so far as their use is concerned, and we could readily adapt ourselves to an Official Classification with these column exceptions for these lower classes that are not there today.

Q. Which can be carried, then, as classes 7, 8, 9, and so on?

A. I would prefer to see it done that way and I would prefer to get as much of it as I could into the classification, get it fixed so that it would be stabilized and so that we wouldn't have to look at dozens, literally dozens of exceptions to classification, because there are individual lines publishing exceptions to classifications besides the rate bureaus, and it is just too complicated a matter.

I want to say this about the Official Classification. There are people who believe, and I have no quarrel with them, that fourth class rates, that is, 55 per cent of first class, are more feasible to a western community than are fourth class rates fixed at 50 per cent of first class, which is the basis in Official, but that comes about from a rather old [Fol. 2615] and antiquated idea that the greatest spread you can get between the carload rate and the l.c.l. rate insured the development of warehousing and little jobbers, but the warehousing situation has changed, the jobbing situation has changed with the advent of chain stores, and new methods of distribution and trucks, and the adoption of 55 per cent of first class, for example, for fourth class rates between Minneapolis and Official Territory, where we now have 50, would impose upon our market a very substantial, I mean a very large rate increase over a period of years, if we worked on this present scale of rates, so I am an advocate of 50 per cent of first class. I wouldn't offer any serious objections if you made it all 55 per cent of first class, but I don't believe there is anything that could be found in this record that would justify increasing the fourth class rate up to 55 per cent of first class. I have in mind there is a broad latitude, a broad vale between maximum and minimum rates, and I have in mind that there

is a broad zone between articles rated fourth class in the classification and moving on column 50 rates in the Official and column 55 in the Western, where the valuation between the lowest in that group and the highest in that group may be three, four, five hundred per cent; so unless you are going to make a more careful separation of commodities and classes, then, more with relation to value, you will have difficulty. That has been one of the controlling things in [fol. 2616] classification in the past, but it hasn't been followed, to any great extent. As just an example of it, I might indicate——

Chairman Aitchison: Don't bother with the example. We would rather have the generalities right now.

The Witness: Well, I just say that the generality is that with respect to iron and steel articles, you can find a valuation between an iron bar that is worth 5 or 6 cents a pound and a high alloy steel that is probably worth $2 a pound, but it all moves at the same iron and steel rate, practically all over the United States. But I don't advocate that these should go in. The country is built up on this.

In that connection, I might say that I was interested in one of your questions the other day to Mr. Fyfe as to how these classification things occur. Well, I have been a member of the Classification Committee, or was, for many years, on the railroad, before we had these very excellent committees. They are highly efficient, well-posted men, specialists in what they are doing. But before that, we had two classification meetings a year. We would have one in the summer at Charlevoix and one in the winter at New Orleans and Galveston; and I have seen the reflections of these things in years past. I had one rating that I tried to correct for a year, but it finally became so noticeable that it was voluntarily corrected by the cariers. I docketed it but it was turned down, but somebody got remorse about it [fol. 2617] and fixed it afterwards, and that was this: dynamos, what we call you know, just an electric motor, motors made in all sizes and adapted to all types of business. They are rated second class in the classification. We have an industry in Minneapolis making what we call oil burners, in which they add about 500 feet of cast iron and wrought iron pipe, which is worth 8 or 10 cents a pound, to an electric motor that is worth $75 or $80, which took the second class rate, and they raised the rate to first class. When I tried to get second class on that combined motor and cheap

equipment or the cheap stuff you manufacture on oil burner out of, one that includes a cast iron base that weighs 25 or 30 pounds, I was turned down; and I went and talked to these fellows about that, and one of them there said—of course, in the old days, a fellow came down to Charlevoix or he went down to Galveston, and the one that had the best disposition or the most pleasing personality and had the largest bank roll, got the best rates. I make no reflection at all, because it is a highly competitive situation; but I do say today, that barring some of the things that I can't understand, these three classification committees today are experts and they are such experts that I never go to one of their meetings because they will laugh you out of court, because they have a cross section of the whole situation. If you are interested in a particular commodity and you [fol. 2618] want to have the classification changed and you think you have got a good case, they will dig you up the same commodity made in Bangor, Maine, that is worth ten times the commodity made by your shipper, and they will laugh you out of court. They are experts at it and I think they are operating efficiently and doing as much as they consistently could for the public; but you must remember that every man has a pride in what he creates and Mr. Fyfe has a pride in his Western Classification and the other men have a pride in theirs, and justly so; but we are getting to the point where it ought to be harmonized in some way so at least future generations won't have to look at three columns where they can get the whole information in one. That is the only point.

By Chairman Aitchison:

Q. I want you to answer one question—I don't want you to take quite so long as you did to answer the last one—and that is: in building up the scale of class rates, what is your thought as to whether or not the logical thing to do is not to start by consideration of fourth class first and then scale the other classes with relation to fourth class, rather than scaling all the classes with relation to first?

A. You mean to divorce the l.c.l. from the carload first?

Q. Yes.

A. Yes. Well, I have thought of that a great deal because the fourth class is rather the predominant tonnage [fol. 2619] that moves under the l.c.l. rates, and you can

readily determine or you can come more near to determining the cost of the transportation, and when you get above fourth class, you can adjust these rates so as to allow something for emergency, because you are getting into the realm of commodities that are considerably higher priced, and I have rather favored the thought of working from the fourth class up and then starting again at fifth class, or something that you are going to determine the carload rate, and working down from there. I think, as we get along in the progression that I rather favor the idea of getting as many of our commodities as we can down to some column basis, because there is too much discrimination, there is too much variance of rates within tariffs and interterritorially, when we use this commodity group description. Of course, I am not talking about long-haul, transcontinental rates, where the carriers, because they like this long-haul traffic, have favored the Pacific Coast at the discrimination against the intermediate territory, such as Minneapolis. I am trying to protect some of those, but you may have to have a different treatment for that; or a basis generally applicable, something that approximates the fourth class for the basis, and grade up from that for your higher classes. I think I could get rid of this Official Classification, this Rule 26 and Rule 25.—It is just an abomination of the past, it doesn't have any [fol. 2620] significance today. Some of the rates are practically—well, Rule 25 is the same as second class or third class, I should say.

Q. Now, take with respect to the local situation in Minnesota with which you are very familiar. The tradition in Minnesota was that Class A was a higher rating than fifth class, was it not?

A. That is because the agricultural implements were light and bulky, comparatively, and we put the agricultural implements in Class A and it was about 45 per cent or higher than 37.5 per cent, which was the more or less going basis for fifth class.

Q. Do you think that is justified?

A. It is only justified by the difference in the weights, because we had 20,000-pound minimum for agricultural implements, and it got up to 36,000 pounds generally for carload freight at fifth class. Of course, there are exceptions to that, but that is the general basis: And that is the

only thing that was justified. It wasn't justified by the difference in value, because a carload of agricultural implements, even using one of these modern tractors as part of that load, has no greater value than a large per cent of the carload traffic moving at fifth class.

Q. Historically, can you explain why it was that fifth class, I mean Class A was higher than fifth class in Minnesota?

[fol. 2621] A. Just for this reason, because it took care of these light-loading commodities with a low minimum weight and applied the fifth class rates.

Q. Have you completed your statement?

A. Well, I did want to mention two or three things about these exhibits.

Chairman Aitchison: It is going to be necessary for us to suspend at 12 o'clock today.

The Witness: Well, I understand that there is—I have gotten so much in these exhibits, that it just seems to burden the record to try to explain much of it. I did want to mention this and I don't know just how it will be done. I am very much interested in this. Agricultural History, Series No. 4, published in July, 1942 by the Bureau of Agricultural Economics, entitled the "Hoch-Smith Resolution, a Study of Congressional Mandate on Transportation." There are numerous statements in here that I would like to incorporate in the brief. I haven't time now to designate the parts I would like to incorporate, but it is a public document and it is very interesting. I don't agree with all of it but it is a good publication.

By Chairman Aitchison:

Q. If you don't agree with it, do you think you ought to quote it is an authority?

A. I think it is worth quoting because it comes from an eminent authority and it might be helpful in writing up a [fol. 2622] brief, to indicate that there are differences of opinion as to what might be done to correct a situation that is rather complicated.

I want to make this additional statement——

Chairman Aitchison: I think it would be well, wouldn't it, if you comply with the rule and designate what you want?

The Witness: Well, my idea was that——

Chairman Aitchison: Let counsel have an opportunity to examine it.

The Witness: Yes.

Chairman Aitchison: And see whether there is any objection to it.

The Witness: If the gentlemen want to examine this publication——

Chairman Aitchison: I mean the portions you want to use.

The Witness: I will mark them some time during the day and leave this here for such information as you want.

Mr. Hughes: Mr. Chairman, so far as the western carriers are concerned, they have no objection to Mr. Townsend quoting from that in his brief. We ourselves may do the same thing. The document——

Chairman Aitchison: I don't know, maybe you gentlemen ought to get together. The others might have something to say about that.

The Witness: I haven't spoken to anybody about it [fol. 2623] before.

Chairman Aitchison: I think we had better adhere to the rule. It is a good rule for all concerned.

The Witness: I just want to make this one statement about Mr. Berg of the St. Paul Association of Commerce. His exhibit has been submitted and I say I collaborated with him on the preparation of it. I have looked it over. It is substantially correct. But in addition to that, he furnished me a statement of some 10 pages. I don't know why he did it except that he has been ill for some time and he was ill at the time the new rules of practice became effective. And while I would like to incorporate this in the record, of course, it is not my testimony and I can't do it, and I just merely mention it to indicate that I have not ignored his mandate to me to try to get this statement in the record. It is a statement relating to his exhibit but it has certain conclusions that he makes that I haven't any familiarity with.

Chairman Aitchison: Without objection, I take it, Exhibits 131, 132 and 133 will be received.

(Exhibits Nos. 131, 132 and 133, Witness Townsend, received in evidence.)

The Witness: May I just add one more word, Mr. Commissioner? My own thought is that as far as the rail and lake rates and the rail-and-lake rates, between Official Terri- [fol. 2624] tory and the Northwest, that they probably can't

receive very much treatment in this proceeding. I do think that our entire Northwest has been deprived of the benefit of its location with respect to our rail and lake rates, which have been made with relation to the all-rail rates. And my own suggestion has been that we find a proper equation for equating the water haul from Buffalo to Duluth and apply such scale of rates as was prescribed between the East and the West so that they would apply through Buffalo and Duluth or in the reverse direction, and this Northwest territory. They would make rates that make the Northwest—and when I say that, I mean the Twin Cities and I mean all of the Northwest, going clear out into Montana, if you please, including important communities like Bismarck and Fargo and Jamestown and Watertown and Abeerdeen. I think all those communities have been deprived of the benefit of their location by the method of adjusting the rail-lake-rail rates. I am not prepared now to say what basis they are going to be, because I don't know what kind of transportation we are going to have on the Great Lakes when these conditions change. We have practically none now, no package carriers of any importance, and I visualize that with the few boats that may come in after this war is over, we will have possibly car ferries and we will have containers for package freight, to avoid the burden of terminal costs. I only men-[fol. 2625] tion that now because I want to indicate that I am not in favor of the present basis of rail-lake-rail rates.

I want to make this one more statement, that I have listened with a great deal of interest to a very excellent presentation having been made here by these various parties, and I can only say that what they seek is wonderful. Whether we can reach Utopia in a proceeding of this kind is more or less doubtful, but whatever has been done, I urge that consideration be given to this statement of mine, that we have been on the edge of this Official Classification Territory, with its classification rates, we have had one foot in the door. We get carried out occasionally. We are back at the door rapping, and we want to get back in.

Thank you.

By Chairman Aitchison:

Q. Would it be feasible, in your judgment, to take the Official Classification boundary from Duluth to the Twin Cities and down the Omaha line, through Omaha, down the

Missouri River to Kansas City and across through the northern part of Missouri to the Mississippi?

A. It would not only be feasible but it would be a treatment of a rather complicated situation that probably, on a record of this kind, is the most that might be done. Now, I appreciate, and this exhibit of mine shows, that Minneapolis and the Twin Cities generally furnish, and the state of Minnesota furnishes probably more tonnage for rail carriers [fol. 2626] than any state of the Union, considering everything. There is a sudden drop-off in industry as you get west of Minneapolis and west of Duluth. I think that the industry we have there, which includes the line you have suggested, includes southern Minnesota, such as Mankato, Winona, Albert Lea and Austin, that that territory is entitled to everything that Minneapolis is entitled to, and I think that the Iowa territory is equally entitled to it. The population of Iowa is so well diffused, going back to the early days when they had the granger laws and didn't encourage the development of large communities, that it is a territory which, when you consider its coal in southern Iowa, when you consider all of its agricultural products and its livestock and you consider its packing house products, scattered throughout the state, its creameries and other industries, that it includes a tonnage that will justify putting it in this group you suggest. I have in mind that southern Indiana is less productive than any foot of soil in Iowa or Minnesota, as a state. You go south of Indianapolis along what we call the JM&I, you find a few canning factories, but you go over to Brown County, it didn't have a railroad until a few years ago, and that entire state is given the Official Classification basis. I don't say here that these rates ought to be reduced, I have deference to the fact that the carriers haven't the revenue——

Q. I wasn't speaking of that; I was speaking of the use of [fol. 2627] Official Classification.

A. Yes, I think the Official Classification would work in that territory and it would be adapted to it. Now, there will be some communities that will adhere to the old theory, they want 55 per cent of first class, but I think it is an exploded theory and one that could well be dropped at that time.

Chairman Aitchison: Cross-examine. (No response.) Evidently you have cross-examined yourself as you went along, (laughter), so you are excused.

The Witness: Thank you.

(Witness excused.)

Chairman Aitchison: We will suspend now until 2 o'clock.

(At 12 noon, November 18, 1942, adjournment taken until 2 o'clock p. m.)

[fol. 2628] Afternoon Session

The hearing was resumed pursuant to recess.

2 o'clock P. M.

Chairman Aitchison: Shall we proceed. Mr. Porter, for Wisconsin.

Mr. Porter: At this time, your Honor, I would like to call Mr. John R. Davy.

JOHN R. DAVY was sworn and testified as follows:

Direct examination.

By Mr. Porter:

Q. Mr. Davy, will you please state for the record your full name, your residence, and occupation.

A. My name is John R. Davy; my residence is Sheboygan, Wisconsin; and I am at the present time, and for the past 22 years have been, manager of the Traffic Bureau of the Sheboygan, Wisconsin, Association of Commerce.

Q. What other traffic experience, if any, have you had, Mr. Davy?

A. Prior to that time, for 20 years, I had traffic experience with the Chicago and North Western Railway, the Goodrich Transit Company; and the Western Weighing & Inspection Bureau.

Q. Are you familiar with the issues involved in this case?

A. Yes.

Chairman Aitchison: That is more than most of us can say.

(Prolonged laughter.)

[fol. 2629] By Mr. Porter:

Q. What connection, Mr. Davy, if any, do you have with the Wisconsin Manufacturers Association?

A. I am at the present time, and for the past 16 years have been, chairman of the Traffic Committee of the Wisconsin Manufacturers Association. That association is a non-profit corporation, composed of a number of manufacturing industries located throughout the State of Wisconsin. It has about 1200 members, that include all of the important industries in the state.

Q. Has that Traffic Committee been active in following this particular proceeding?

A. Yes.

Q. Now before asking you to state your position, and that of your organization, Mr. Davy, I want to ask you a few questions with respect to the operation of the car ferry routes across Lake Michigan. What lines operate those car ferry routes?

A. The Ann Arbor Railway——

Chairman Aitchison: To shorten it, we will take judicial notice of that.

Mr. Porter: As well as the ports that are reached and served by those routes, your Honor?

Chairman Aitchison: Yes. That is a matter of common knowledge.

Mr. Porter: Very well.

[fol. 2630] By Mr. Porter:

Q. Do the eastern railroads which operate these car ferries, maintain and operate terminals at west bank Lake Michigan ports?

A. Yes.

Q. And do those west bank Lake Michigan ports constitute the western termini of those railroads?

A. Yes, sir.

Q. How many vessels are operated in this car ferry service, Mr. Davy?

A. About 16.

Q. What is their capacity?

A. From 25 to 30 cars per vessel load, depending upon the size of the cars that constitute the load of the particular vessel.

Q. How are the cars handled onto and off of the vessels?

A. They are switched onto the vessels, either at the west bank ports, or vice versa, at the east bank ports. In other words, cars destined to eastern territory are switched onto the car ferries at Manitowoc and other west bank ports, and then they are switched off of the ferries at the east bank ports, on the east side, such as the ports of Ludington, Frankfort, and Muskegon.

Q. Is there any transfer of lading involved in that operation?

A. No, sir, there is not. The cars are not opened; that is, the lading in the cars is not transferred.

[fol. 2631] Q. How frequent is the operation?

A. They operate generally about two round trips per day.

Q. Do they operate throughout the year?

A. Oh, yes.

Q. In the winter as well as the summer.

A. Yes, sir.

Q. How does the winter tonnage compare with the summer tonnage?

A. Well, generally speaking, the winter tonnage exceeds the summer tonnage, and that is principally due to the fact that other lake operations are abandoned during the month of December, and are not restored until about the middle of the following March, so that during that period, generally speaking, the car ferry tonnage exceeds the tonnage during the period of the balance of the year.

Q. Now, Mr. Davy, can you give us some idea as to the proportion of the traffic that is handled by car ferry, to and from the territory immediately tributary to the car ferry termini?

A. Well, for example, citing Sheboygan, Wisconsin, with which I am thoroughly familiar, from 85 to 90 per cent of the carload and less than carload tonnage destined to Eastern Trunk Line and New England territories, moves via the cross-lake car ferry routes. As far as Zone C territory is concerned, including adjacent territory, and the territory immediately north thereof, including Upper Michigan, it would approximate nearly the same percentage.

[fol. 2632] Q. When you refer to Zone C territory, Mr. Davy, do you have reference to extended Zone C territory?

A. I mean, extended Zone C territory in Wisconsin, yes, sir.

Q. Is that territory that is principally tributary to the car ferry operations?

A. Yes.

Q. Are the car ferries important, with respect to the service which is furnished by them to this Wisconsin territory?

A. They are, yes, sir, and very much so. The service via the cross-lake lines, citing Sheboygan again, as a typical example, will conserve, at a minimum, from one to two days, as compared with the route via Chicago.

Q. Now will you state, please, Mr. Davy, whether or not in the past these lines have been used for the making of rates between Wisconsin and the West, on the one hand, and the East, on the other hand?

A. Yes, sir, they have been so used. The car ferry service came into existence in January of 1892, having been first established by the Ann Arbor Railway, operating from Manitowoc to Ludington,—or rather, I mean to say from Manitowoc to Frankfort, Michigan; and since that time, up to the time the Interstate Commerce Commission prescribed class rates from west bank Lake Michigan ports—or rather between west bank Lake Michigan ports on the one hand, and the balance of Official territory on the other hand, the rates from the west bank Lake Michigan [fol. 2633] ports were on a parity with the rates between Chicago and Eastern territory.

Q. Is it your position, Mr. Davy, that these car ferry routes should be recognized in the making of rates?

A. Absolutely, yes, sir.

Q. Now I would like to ask you, Mr. Davy, to state in just a very brief and general way, the position of the Wisconsin interests for whom you are appearing in this proceeding. Are you advocating at this time any sweeping or general revision of the class rates?

A. No, sir, we are not. While we are not entirely satisfied with our present class rate adjustment, and particularly with our relationship to Illinois and Central Freight Association territory, with which we are mostly competitive, rather than see any general revision of the class rate structure undertaken at this time, at a time such as the present time, when production and traffic are so abnormal and the future so uncertain, we would very much prefer to continue under the present rate structure until we know more about what our production after the war will be,

and where our competition will be located. For that reason we feel that the present rate structure should be allowed to stand until after the war. If a general revision of the class rates is prescribed at this time, however, we feel that the basic Official territory rates should be extended to [fol. 2634] include at least that part of the State of Wisconsin which lies south of a line drawn from Green Bay to the Twin Cities. This line will be more specifically described later by Mr. Schreiber.

Q. Now, if a geenral revision of the class rate adjustment is undertaken at the present time, Mr. Davy, do you advocate anything with respect to the prescription of class rates in other territories,—that is, other parts of Western Trunk Line territory, the Southwest, or Southern territory?

A. No, sir, we do not, excepting that we do believe that the intraterritorial adjustment should first be made, and that the interterritorial rates between two or more differently rated territories should be arrived at by a blending of the different levels in some manner such as was employed in the Western Trunk Line Class Rate Case, docket 17,000 Part 2, reported in 164 I. C. C. 1; or the use of some other formula which will produce rates reflecting the rates of the respective territories in which interterritorial traffic moves. These rates should apply in both directions.

By Chairman Aitchison:

Q. May I ask, Mr. Davy, if you have had any experience in the use of the so-called laminated scales?

A. Why, we have had, yes, sir, in the making of rates between Eastern territory and that portion of the State of Wisconsin lying in the so-called Zone-1 territory.

Q. Well, what I was trying to get at was as to whether or not you have had any actual personal experience with [fol. 2635] them, so that you know just what it is that you are recommending.

A. Well, Mr. Chairman, no, I have not had anything directly to do with the making of rates constructed on the basis of that principle, except what was used in determination of rates between Official territory and that part of Wisconsin lying within Zone-1 territory; and in addition to that, Mr. Chairman, we have bridge scales that are used in constructing rates to the territory adjacent to lower

rated territory, such as Zone A, and Illinois Freight Association territory in Wisconsin.

By Mr. Porter:

Q. Well you have had experience, have you not, Mr. Davy, with respect to the use of these scales, and the laminating factors in these scales, for the purpose of determining what rates are produced, and comparing them with other rates, in preparation for rate cases?

A. Oh, yes.

Mr. Porter: The witness is tendered at this time, if the Commission please, for cross-examination.

Chairman Aitchison: Is there any cross-examination?

Mr. Norman: I have a question or two.

Cross-examination.

By Mr. Norman:

Q. Mr. Davy, if I understand your testimony correctly, your proposition is that you do not want to make any changes in the class rate structure, but you are just going to change the boundary of Official territory so as to take [fol. 2636] you in; is that correct?

A. That is, providing it is necessary, under the testimony that is presented, to accomplish that, to move our portion of the state over to the line that I have described here, from Green Bay to the Twin Cities.

Q. Well they could satisfy all of us that way, could they not, by just moving the territorial boundaries of Official Classification territory so as to put us all in there; and then we would all be satisfied?

A. Well, there are certain portions of the State of Wisconsin as to which we are not advocating that that principle of making rates be applied, and there are others as to which we are advocating that it be applied, for the reason that they are justly entitled to it, due to certain traffic conditions, volume of traffic, and so forth and so on. In that portion of Wisconsin that I have described here, we feel that they are justly entitled to it.

Q. That is the portion that you are in, is it not?

Q. No, sir, I wouldn't say that.

Q. How?

A. No, sir. We are located on the west bank of Lake Michigan, and are considered as being part and parcel of Official territory today,—as far as Sheboygan is concerned.

Q. You are just going to take in that particular portion of the State of Wisconsin then; is that correct?

[fol. 2637] A. We are going to take in the portion of the state which lies south of the line that has been described here.

Q. What is your objection, if any, to having a uniform basis of rates and classification extended throughout the territory?

A. Throughout what territory?

Q. Well, throughout the territory, let us say, east of the Rocky Mountains.

A. Oh, I am not in a position at this time, Mr. Norman, to state to the Commission my views in connection with that particular matter. I have not made a thorough study of it, and therefore I would not be in a position to state whether that would be proper or not. I think that is up to the interests that are located in those particular territories, to state whether or not that can be accomplished.

Mr. Norman: That is all.

Chairman Aitchison: Is there any further cross-examination? (No response.)

Mr. Porter: I have just one question on redirect, your Honor.

Redirect examination.

By Mr. Porter:

Q. Mr. Davy, I think Mr. Norman misunderstood the statement of your position. You said, did you not, that while you were not in favor of changing the class rate structure at this time, if it were to be changed, then you were advocating the extension of Official territory, in effect, [fol. 2638] to include the Southern part of the State of Wisconsin?

A. Yes, sir.

Mr. Norman: Was that his statement?

Mr. Porter: Yes.

Mr. Norman: Then I did not so understand him.

Mr. Porter: I thought you had misunderstood.

Mr. Norman: Yes, I misunderstood him.

The Witness: That is what I said.
Mr. Porter: Yes.
Mr. Norman: Thank you.
Mr. Porter: That is all.
Chairman Aitchison: You are excused.
The Witness: Thank you.

(Witness excused.)

Mr. Porter: Call Mr. Ivan A. Sherman, please.

IVAN A. SHERMAN was sworn and testified as follows:

Direct examination.

By Mr. Porter:

Q. Mr. Sherman, will you please state for the record your full name, your residence, and your occupation.

A. My name is Ivan A. Sherman; my address is 543 State Office Building, Madison, Wisconsin. I am at the present time employed by the Public Service Commission of Wisconsin.

Q. What traffic experience have you had?

[fol. 2639] A. I have had several years of railroad experience. For 9 years I was Assistant Director of the Madison Traffic Bureau, a shippers' organization, furnishing traffic service to industries located in and around Madison; and as such I assisted in the preparation for, and participated in, various proceedings before the Interstate Commerce Commission and the Wisconsin Public Service Commission. Since November 15th, 1936, I have been employed by the Public Service Commission of Wisconsin, first as Assistant Chief of the Tariffs Department, and more recently as Supervisor of the Tariffs Section.

Q. Do you feel, Mr. Sherman, that you are familiar with the issues involved in this proceeding?

A. I think so.

Q. Have you prepared, or caused to be prepared under your direction and supervision, an exhibit containing certain matters which bear upon those issues?

A. Yes, sir.

Mr. Porter: If the Commission please, may we have the exhibit marked for identification at this time with the next number in order.

Chairman Aitchison: 134.

(Exhibit 134, Witness Sherman, marked for identification.)

By Mr. Porter:

Q. Mr. Sherman, is the document that has just been marked by the reporter as Exhibit No. 134 for identification, the exhibit to which you refer?

[fol. 2640] A. Yes, sir.

Q. Is the exhibit true and correct, so far as you know?

A. Yes, sir, to the best of my knowledge and belief, the exhibit is true and correct.

Q. Have you also had prepared an explanation of the exhibit, and for further testimony, a statement which you have reduced to writing?

A. Yes, sir.

Q. Is that statement likewise true and correct, so far as you know, and believe, Mr. Sherman?

A. Yes, sir.

Mr. Porter: If the Commission please, we shall be glad to have Mr. Sherman read his prepared statement into the record, or have it copied in, just as you please.

Chairman Aitchison: It has been circulated in advance, has it?

Mr. Porter: Yes, sir.

Chairman Aitchison: Is there any objection to copying it in, gentlemen? (No response.) That may be done.

(The statement is as follows:)

Upon instruction from my superior officers, I am appearing in this proceeding in behalf of the Public Service Commission of Wisconsin and the state as a whole. My testimony is for the purpose of showing the Commission the practical effect of some of Witness Jensen's proposals upon [fol. 2641] the rate structure now in effect between Wisconsin and Official territory.

I have prepared an exhibit which illustrates these effects, and I now offer it for identification. All computations of distances and rates have been made as outlined in Witness Jensen's Exhibit No. 7 as clarified with respect to the Wisconsin situation by his testimony at the St. Louis hearing in this proceeding. It was there stated that extended Zone C in Wisconsin was considered as a part of Zone 1 territory.

and that it should be treated as being in Zone 110. The witness also stated that the rate proposals contemplated the use of "all-rail" routes, and that "car-ferry routes" across Lake Michigan had not been considered.

In computing the proposed mileages shown on pages 2 to 17, inclusive, of my exhibit, I have therefore used short line routes via Chicago, Illinois. That portion of Wisconsin which has been designated by the Interstate Commerce Commission as forming a part of Illinois Freight Association territory was considered as being located in Zone 100 and the balance of Wisconsin as being located in Zone 110. Official territory was treated as outlined in Witness Jensen's Exhibit No. 7.

Page No. 2 of my exhibit shows a comparison of the present first class rates and the short line distances on which they are based from 14 representative points in Wisconsin to [fol. 2642] Indianapolis, Indiana, with the distances and first class rates proposed by Witness Jensen. Inasmuch as Wisconsin industry generally finds keen competition in the marketing of its products in the East from Chicago, I have used that point as representative of competing points, and shown a comparison of the present spread in rates of the Wisconsin points over Chicago with the spread which would result under the proposed rates and the resulting change in relationship.

Attention is called to the fact that although the proposed mileage via Chicago is the same as the short line distance, the proposed rates would result in reducing the present first class rates by amounts ranging from 15 to 40 cents per 100 pounds. They would also increase the spread over Chicago in the first class rates from Wisconsin points located in Illinois Freight Association and Extended Zone C territories by amounts ranging from one to seven cents, and reduce the present spread of Wisconsin Zone 1 points by amounts ranging from 12 to 18 cents per 100 pounds.

Sheet No. 4 shows a similar comparison of distances and rates to Detroit, Michigan. Here it should be noted that the computation of mileages via Chicago results in increasing the present ratemaking distances from 15 to 134 miles. The proposed rates would result in reductions ranging from 3 to 22 cents from all the Wisconsin points shown except Manitowoc, Green Bay and Marinette, but would increase [fol. 2643] the rates from Manitowoc 3 cents and Green Bay 4 cents and Marinette 11 cents per 100 pounds. The spreads

in first class rates over Chicago from Wisconsin Illinois Freight Association and Zone C points would be increased by amounts ranging from 7 to 30 cents as compared with increases of from 1 to 7 cents from Zone 1 points except La Crosse and Ashland where the spread would be reduced 3 and 2 cents.

The effect of eliminating car-ferry routes from the computation of short line mileages upon Wisconsin's rate structure is strikingly illustrated on page No. 6. The use of the Chicago gateway increases the distances for ratemaking purposes to Ludington, Michigan, by mileages ranging from 201 to 377. It also results in proposed rates which exceed the present rates by amounts ranging from 4 to 49 cents per 100 pounds, and the spread in first class rates over Chicago would also be increased by amounts ranging from 12 to 57 cents per 100 pounds.

To Cleveland, Ohio, shown on page 8, the proposed first class rates would result in reductions ranging from 5 to 32 cents except from Marinette, Wisconsin. The spread over Chicago from Illinois Freight Association and Zone C points in Wisconsin would be increased by amounts ranging from 3 to 17 cents, and the spreads of Zone 1 Wisconsin points would be reduced by amounts ranging from 7 to 15 cents.

The comparison of present and proposed first class rates [fol. 2644] to Trunk Line and New England points shows a different situation. For the longer distances here involved, the Jensen proposal results generally in increases over the present rates. To Boston, Massachusetts, shown on page 16, the proposed rates result in increases ranging from 3 to 51 cents per 100 pounds except that the La Crosse rate would be reduced 8 cents, and the Eau Claire rate 3 cents per 100 pounds. The increase in spreads would range from 3 to 36 cents, and reductions from 11 to 23 cents.

The situations cited in the exhibit are illustrative only in part of the violent disruption of Wisconsin's rate structure and competive relationship would result under Witness Jensen's proposals.

The comparisons shown deal only with present and proposed first class rates. As a practical matter, the bulk of the traffic moves on rates and ratings other than first class, and in order to make comparisons of present and proposed rates on these other classes of traffic, as well as the present and proposed rates from competing points, it would be

necessary to know the proposed ratings for the various descriptions of traffic.

The ratings which would result from Mr. Jensen's proposals are undisclosed by the record. Mr. Jensen, however, did testify that in general there would have to be increases in classification ratings offsetting the suggested reductions [fol. 2645] in the first class rates in order to maintain the carriers' revenues, and that the classification ratings to be adopted should be uniformly applied.

In discussing the controlling principles in the proposed revision of class rates, he said at page 55 of Exhibit No. 7: "No readjustment of class rates should be required which would diminish the aggregate revenues of the railroads in any section, because nowhere are they earning as much on their investment as they have a lawful right to do."

With respect to classification changes, Witness Jensen stated at page 60: "Where there is warrant for a difference in the level of rates on class traffic in two adjoining territories, the first class rates in the respective territories should be made to reflect as nearly as may be that precise difference, and the classifications within and between the two territories should then be made and kept uniform."

At page 71: "As previously outlined, the readjustment here proposed contemplates a reduction of class rates compensated by an increase in classifications." And at page 81: "A revision of class rates such as here proposed, or any other alteration of the bases and level of the existing rates, would necessitate extensive classification readjustments to avoid undue hardship to shippers or carriers, or both."

As before stated, we cannot present a picture as to what [fol. 2646] will happen to Wisconsin's relationship with competing points on various descriptions of traffic until we know what the governing classification rating will be on that traffic. We may, however, conclude from Mr. Jensen's testimony already quoted that there will be increases, generally speaking, in the classification ratings to offset the reductions in first class rates.

These reductions in first class rates as between points within Official Classification territory or territory closely related thereto are for the shorter distances, whereas increases are proposed for the longer distances. For example, from Illinois Freight Association territory and Extended Zone C in Wisconsin to Central Freight Association terri-

tory points, my exhibit shows generally proposed reductions in first class rates, whereas on the longer hauls to New England and Trunk Line territories increases are proposed.

However, because of the closer relationship in first class rates proposed between Western Trunk Line territory, on the one hand, and Official territory, on the other, reductions, generally speaking, in the proposed first class interterritorial rates result, regardless of the distances involved. Increases in the classification ratings to offset reductions in the rates will result, with respect to traffic other than first class, in magnifying the effect of all of the increases in rates [fol. 2647] shown in my exhibit in minimizing the effect of all of the reductions.

Bearing in mind that Wisconsin's principal markets for class rate traffic are located in Official territory, and that its principal sources of competition in these markets are also located in Official territory with relatively short hauls, increases in the classification ratings will produce effects upon rate relationships with competing producers of greater disadvantage to Wisconsin points than is indicated by a comparison of the first class rates as made in the exhibit.

The present all rail class rates applying between Wisconsin and Official territory are based on short line distances except where key point rates have been established. In the computation of these distances car-ferry routes were considered as all-rail routes, and the carriers have used the short line distances via routes through Canada in determining the rates between Wisconsin and Trunk Line and New England territories.

Therefore, on pages 17 and 23, inclusive, of my exhibit, I have shown similar comparisons of the present first class rates with first class rates obtained by applying the Jensen formula, to short line distances, making use of car-ferry and Canadian routes where appropriate. In the application of the formula, all mileages within Canada were considered in Zone 105. In general, the use of these short line routes in computing the proposed rates results in greater reductions [fol. 2648] on the short haul traffic and reduces the increases in connection with long haul traffic.

My Mr. Porter:

Q. Now, Mr. Sherman, there are just one or two further questions that I would like to ask you. Your exhibit deals primarily with a comparison of the rates which are made

cross-lake by the car ferry routes, as compared with the rates which would be made via the Chicago gateway; is that correct?

A. Yes.

Q. And it was prepared because of the suggestion by Mr. Jensen that the cross-lake routes be ignored in making these rates; is that correct?

A. Yes, sir.

Q. Now, will you please state, for the purpose of illustrating this comparison, what the shortline mileage between Milwaukee, Wisconsin, and New York is.

A. 881 miles.

Q. What is the mileage via the Chicago gateway?

A. 975.

Q. Now where would you go in Illinois—

Commissioner Alldredge: Just a moment, please. How is that short line distance made?

Mr. Porter: Pardon me, your Honor?

Commissioner Alldredge: I say, how is that shortline distance made?

[fol. 2649] Mr. Porter: I will ask the witness.

By Mr. Porter:

Q. How was that shortline distance constructed, Mr. Sherman?

A. Cross-lake.

Q. Through Canada?

A. Yes, sir.

Mr. Porter: Does that answer your question, Mr. Commissioner?

Commissioner Alldredge: Yes.

By Mr. Porter:

Q. Now, Mr. Sherman, where would you go in Illinois to find a point equidistant from Milwaukee via the Chicago gateway?

A. The distance from Rockford, Illinois, to New York, via the short line, is 1175 miles.

Q. So that under the proposal of Mr. Jensen, would Rockford to New York take the same rate as Milwaukee to New York?

A. Yes, sir.

Q. And what result would that have, if any, on the present relationship, Milwaukee versus Rockford?

A. Well, at the present time—or on the basis of the present adjustment, the Milwaukee rate would be increased 15 cents under the proposed scale of Witness Jensen; and the Rockford, Illinois, rate would be increased only 6 cents.

Q. I do not think you quite understood my question, Mr. Sherman. My question was this: What result would that [fol. 2650] have—or rather let me ask you another question first. What is the present relationship, Milwaukee as compared with Rockford, to New York? What is the spread in the rates?

A. The present spread in the rates is 9 cents per hundred pounds.

Q. Would that spread be wiped out if the proposal of the Witness Jensen were to be adopted?

A. Yes.

Q. With what result?

A. So that the rate from Milwaukee and the rate from Rockford, Illinois, to New York would be the same, namely, $1.82.

Q. Now, let us take just one further example, please. From Sheboygan, Wisconsin, to New York, what is the shortline distance, figured cross-lake, through Canada?

A. 906 miles.

Q. What is the distance via Chicago?

A. 1027 miles.

Q. And where, west of Chicago, would you go to find a point that was likewise 1027 miles, or substantially the distance from New York to Sheboygan?

A. From Clinton, Iowa, to New York the shortline distance is 1028 miles.

Q. Now the present rates from Sheboygan, Wisconsin, and Clinton, Iowa, compare how?

A. The present rate from Clinton, Iowa, is $1.84, and the [fol. 2651] rate from Sheboygan, Wisconsin, is $1.67,—to New York.

Q. A spread of 17 cents?

A. Yes.

Q. And how would the present relationship be affected, if the proposal of the Witness Jensen were to be adopted?

A. Under the proposal of Witness Jensen, the proposed rate from Sheboygan, Wisconsin, to New York, would be $1.90, and from Clinton, Iowa, to New York, $1.87. In

other words, the rate from Sheboygan would be 3 cents over the rate from Clinton, Iowa.

Q. You were present in the hearing room just now when Mr. Davy made a statement of the position of his interests in this case, were you not?

A. Yes, sir.

Q. You heard his testimony, did you?

A. Yes, sir.

Q. Does the Public Service Commission of Wisconsin concur in the position as expressed by Mr. Davy?

A. Yes.

Mr. Porter: That is all on direct with Mr. Sherman, if the Commission please.

Chairman Aitchison: You offer the exhibit, do you?

Mr. Porter: Yes. Thank you. Witness Sherman's Exhibit 134 is offered in evidence at this time.

Chairman Aitchison: Without objection, it is received.

[fol. 2652] (Exhibit 134, Witness Sherman, received in evidence.)

Chairman Aitchison: Cross examine.

Mr. McCollester: I would like to ask one question, Mr. Chairman, for the purpose of information only.

By Mr. McCollester:

Q. Mr. Sherman, are these distances across the lake figured in actual land miles?

A. Yes, sir.

Mr. McCollester: Thank you.

Chairman Aitchison: Is there any cross examination? (No response.) Apparently not.

By Mr. Porter:

Q. That is the basis, is it not, Mr. Sherman, that the Commission has customarily used in dealing with car ferry routes?

A. Yes, sir.

Mr. Porter: That is all.

Chairman Aitchison: You are excused.

(Witness excused.)

Mr. Porter: At this time I would like to recall Mr. C. E. Schreiber.

Chairman Aitchison: He has been sworn.

Mr. Porter: Yes, your Honor.

C. E. SCHREIBER recalled:

Direct examination.

By Mr. Porter:

Q. You are the same Mr. Schreiber who was sworn and [fol. 2653] testified here yesterday, are you not?

A. Yes.

Q. You identified yourself for the record at that time.

A. Yes, sir.

Q. Now, Mr. Schreiber, in addition to the exhibit which you presented at the hearing here yesterday, have you also prepared a further exhibit dealing more specifically with the situation in the State of Wisconsin?

A. Yes, sir; that is, a part of the additional exhibit which I have prepared deals more specifically with the situation in Wisconsin.

Q. And the remainder of the exhibit deals with what subject, Mr. Schreiber?

A. The remainder of the exhibit deals generally with the application of cost analysis to class rates.

Q. Now, will you state briefly, please, the general purport of the material which is contained in this exhibit, before you proceed with a detailed explanation of it.

Chairman Aitchison: Supposing we have it identified, so that the record will show what it is he is talking about.

Mr. Porter: Yes, your Honor. I ask at this time that the exhibit be marked for identification with the next number in order.

Chairman Aitchison: 135.

(Exhibit 135, Witness Schreiber, marked for identification.)

[fol. 2654] By Mr. Porter:

Q. Now will you answer my question, please.

A. The main purposes of the Wisconsin portion of Exhibit 135 for identification are to show how the general economy and the trend of that economy, the State of Wis-

consin, compare with those of other territories in the country; to show the extent of the changes over the last 10-year period in the amount of traffic originated and terminated in Wisconsin, particularly that traffic which might be termed as of a class rate nature; to show the relationship of Wisconsin, and particularly certain parts of Wisconsin, to adjoining states, and states in the East and South, as regards manufacturing; and to show how Wisconsin is linked to the territory to the east by the car ferry lines. As to that last—you were referring to the Wisconsin portion of the exhibit, were you not?

Q. Yes.

A. Very well, then; that is correct. Now, in the Wisconsin portion of the exhibit, certain portions of it—or rather, I should say, that portion which deals with the general economy of the state in comparison with other territories, is patterned after the exhibit which I introduced here yesterday. At this point probably I had better call attention to the fact that on certain pages of Exhibit 135, there are references to the exhibit which I introduced yesterday. At that time I was unable of course to supply the exhibit number, so that should be perhaps inserted at this time; first, [fol. 2655] on page 1, in the very last line of the notes, of Exhibit 119.

Q. Exhibit 119?

A. Yes, sir.

Chairman Aitchison: Now, you don't mean that, Mr. Schreiber. You mean that the reference to Exhibit 119 should be inserted in the last line, on page 1 of your Exhibit 135, do you not?

The Witness: That is what I was trying to say, Mr. Chairman.

Chairman Aitchison: All right.

The Witness: The same should be entered on page 2 also, of Exhibit 135, in the last line, under the heading "Source"; and also on page 5. Now I think that those cover all of the pages upon which the reference to my exhibit 119 should be entered. If I have missed any, I would appreciate it very much if some one would call them to my attention right now.

By Mr. McCollester:

Q. It is the same exhibit reference in all cases, is it, Mr. Schreiber?

A. Pardon me?

Q. The same exhibit reference is to be inserted, in all cases, is it?

A. Yes, sir.

Q. Wherever there is a blank, in your present exhibit, 135.

A. Yes, sir. The blanks all refer back to the exhibit [fol. 2656] which I introduced yesterday.

Mr. McCollester: Thank you.

By Mr. Porter:

Q. Proceed.

The Witness: Page 1 of My Exhibit 135 corresponds to pages 1 and 2 of my Exhibit 119, which was introduced yesterday. Page 2 of the present exhibit is based on pages 3 and 4 of the earlier exhibit. There have been some additional figures entered here, but they are deductions from what was in the earlier exhibit. The railroad data appearing on pages 3 to 5 of the present exhibit, correspond to the tonnage data by districts and regions appearing on pages 17 to 32, inclusive, of my Exhibit 119, except that for the State of Wisconsin I show here the terminated traffic as well as the originated traffic. Page 6 of the exhibit I believe requires no explanation, being simply a statement of tonnage originated and tonnage terminated by individual railroads. The data appearing on page 7 of this exhibit, except for the Wisconsin data, have been taken directly from the earlier exhibit. I should, however, call your attention to the fact that note 1, at the bottom, applies only to Wisconsin, which is the first item under the heading of the group "Originated," and likewise under the "Terminated"—the note should apply there to Wisconsin; and also to Wisconsin under "Total Terminal Tons." The car ferry tonnages are not included here, mainly for the reason that, from the reports that we had, it was [fol. 2657] impossible to separate out the car ferry tonnages which have been included by other carriers, and those which were not. Further in that connection I would like to call your attention to the fact that the Q-550 statemens of tonnage originated and terminated by individual states, seem

to include the car ferry tonnages, but of course, we have that data only for the last—well, starting with 1940. Pages 8, 9 and 10 of the present exhibit show the leading industries, manufacturing industries, of the State of Wisconsin. I have listed here every one, as to which the value of the product constituted over one-half of one per cent of the total for the entire state. In the left hand margin I have listed the rank of each industry within the state. Under column (g) on the right hand margin, I have shown the rank of the State of Wisconsin among the other states, as to whether it is first, second, third, fourth, fifth and so forth. Page 8 is for the year 1939; page 9, for the year 1929; and page 10, for 1919. I forgot—or rather I neglected to call attention to the fact that column (f) shows, for each industry, the percentage that the value of products for the Wisconsin manufactures, was of the national total. In connection further with this data, I would like to mention the fact that a time comparison is very badly hampered by the fact that the same industry classifications have not been adhered to throughout the entire period from 1919 to 1939. [fol. 2658] As an illustration of that, tractors have a separate classification in 1939. In 1929 they were included under Engines, Turbines, Tractors and Water-wheels. In 1919 paper and woodpulp were combined; while in 1929 and 1939, pulp was given separately. Some of the changes are of such a character that combinations to give comparative totals, are impossible. This would apply, not only to what I have used here, that is, each individual classification of which I believe altogether there were some 450, but also the subgrouping thereof. In other words, I found that items would be thrown from one subgroup into another; and for that reason I have not attempted any subgrouping, but have preferred to show the individual items.

Q. And these changes, of course, are changes by the Census Bureau, rather than changes of your own, are they not?

A. The changes are in the classification as established by the Census Bureau, yes, sir.

Q. Continue.

A. Page 11 of the exhibit is a county outline map of Wisconsin, and the Mississippi River border counties of Minnesota and Iowa. This map is intended to afford a better understanding of the statistics which are set out on pages 12 to 18, both inclusive, of the present exhibit. I might call attention to the fact that there is one discrepancy, however,

between the map and the statistical data. The line which I have shown on this map as being the north line—or rather, the northern boundary line of the territory which I have [fol. 2659] heretofore roughly described as that on and south of the Green Bay-Twin Cities line, runs through the middle of Shawano County, and thence over to the middle of Marathon County, where the city of Wausau is located. That portion of the line is in error. It follows the line of the Chicago and North Western Railway through Shawano to Wausau, whereas in the statistical statement the line used was the more southerly line of the Green Bay & Western from Green Bay to New London, and thence the line of the Chicago and North Western from New London to Wausau, which would cut through only the extreme southwestern corner of Shawano County. In the statistical tables I have included Shawano County as if it were beyond that line, or north of the line. The dotted lines at the bottom indicate the extent of Illinois Freight Association territory in Wisconsin, and extended Zone C in Wisconsin. The heavier line, as I have explained, running beyond Green Bay, is the line of demarcation that we have used as the line which has been described as the Green Bay-Twin Cities line. On pages 12 and 13 the information is set forth for the individual counties of Wisconsin, area and population as of 1940, and statistics of manufacturers for 1939. Referring to the left hand margin, where the counties are marked A, B or C, the counties marked A are those that lie within Illinois Freight Association territory, either wholly or in major part, as measured by population. The counties [fol. 2660] marked B are those which lie in extended Zone C territory, either wholly or in major part as regards population. The counties marked C are other counties lying south of the Green Bay-Twin Cities line. On page 14 I give at the top the corresponding data for Minnesota and Iowa counties which border this territory south of the Green Bay-Twin Cities line, to the west; that is, those which border on the Mississippi River. In the bottom half of the page I show the Wisconsin state totals; the totals for Illinois Freight Association territory; extended Zone C territory in Wisconsin; for all of Wisconsin south of the Green Bay-Twin Cities line; and then that same territory plus the Iowa and Minnesota Mississippi River border counties. In comparison with that, I show data for Ohio, Indiana, Illinois and Michigan, and also Minnesota, Iowa and Missouri.

Now when I make reference in this exhibit to group 3, I am referring to group 3 as used in my previous exhibit, Exhibit 119, which was shown there as being made up of the states of Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, Iowa and Missouri. On the next page of the present exhibit, the data given on the preceding pages are reduced to averages per square mile and per thousand of population. Pages 16 and 17 of this exhibit give corresponding data relative to cities of over 10,000 population located within the State of Wisconsin, and the Mississippi River border counties of Iowa and Minnesota.

[fol. 2661] By Com. Splawn:

Q. Right there, Mr. Schreiber, let me see if I understand you correctly. In your group 3, have you included Kansas City?

A. No, Mr. Commissioner, I have not; only the Mississippi River border counties, which would be the counties which border on the Mississippi River, from Dubuque, Iowa, up to the Twin Cities in Minnesota. Page 18 of the exhibit shows the extent of concentration in a single county or in a single city, as regards manufactures. for the States of Ohio, Indiana, Illinois and Michigan; and then for each of the various groups of states which I have used in my previous exhibit, No. 119. In the bottom half of page 18 I show the distribution of counties by volume of value of products; that is, the number and the percentage of total, of counties which had a value of manufactured products of over $50,000,000, and between $20,000,000 and $50,000,000. In that connection, Mr. Chairman, I find that there is an error in the exhibit. It states there, in error, 20 to 20. That is in the third column of figures there—or rather, column (d), in the second or lower half of the sheet, where it now says "20 to 20", it should read, "20 to 50".

By Mr. Porter:

Q. Column (c), did you say?

A. No, column (d).

Mr. Porter: Note the correction, please.

A. (Continuing:) I show not only the actual number of [fol. 2662] counties, but also the percentage that this number of counties are, of the total number of counties. I might

further explain in connection with this particular portion of the exhibit, Mr. Chairman, that in some instances the census returns did not give the value of products for certain counties, for the reason that that might disclose the returns of individual companies. For such counties, in the event that the census returns did give the number of wage earners, I estimated the value of products for those counties on the basis of the relation of the number of wage earners for those counties to the total for all counties, for which the value of products was not shown, and used the percentage thus derived to the total value of manufactured products for all of those—what I call the undistributed counties. If the number of wage earners for a county was not shown, I assumed that the value of manufactured products was over $1,000,000 for that county. On page 19 of the exhibit I give data corresponding to that set forth on the preceding pages for the Michigan Zone C counties in what I have described as the car ferry territory. I have used, roughly, a line from Frankfort to Bay City—of course the southern boundary of Zone C in Michigan would be fixed by the actual break; and for the northern boundary I have used the line from Frankfort to Bay City, overlooking the more northerly Michigan car ferry ports, in doing that. The bottom half of the sheet I think shows more definitely just what counties are included.

[fol. 2663] Also I have compiled the total for these Michigan Zone C car ferry territory counties, with Extended Zone C in the State of Wisconsin.

Pages 20, 21 and 23 relate to the marine commerce of the main Wisconsin ports. I haven't taken all of the ports but only the main ports. What those ports are are shown on the various pages and data is given for the individual ports. On these pages I have taken the tonnage for the years 1928, 1929, and 1930, as set up in contrast with the years 1938, 1939 and 1940. That is, I compared the totals for those two periods rather than the individual years. I have also broken the total tonnage carrier by the main bulk commodities and all other commodities and the footnote on page 23 states what commodities are included as main bulk commodities and what in all other commodities. For (3), I might say it includes all commodities included in manufactured and miscellaneous—well, railroad commodity classification, and also all other commodities not included as

the main bulk commodities. Pages 20 and 21 relate to the general vessel traffic of the Wisconsin ports.

Page 23 relates to the car ferry traffic of the Wisconsin ports. Inserted as page 22 is a map of the car ferry routes across Lake Michigan, together with the main eastern rail lines serving the car ferries, and also the main western lines connecting with the car ferries. West of Lake Michi-
[fol. 2664] gan I show also the main routes north from Chicago into Wisconsin.

Page 23, I believe, requires no further explanation. 24 is merely a statement of the truck, tractor and trailer registration in Wisconsin from 1918 to 1940, and the lower half of the page gives the operating revenue and tons carried, in so far as the data could be obtained, for the Wisconsin intrastate common motor carriers of property. An intrastate common motor carrier of property is a common carrier who is authorized to do intrastate business in the state of Wisconsin, independent of whether or not he may conduct also interstate operations.

That is all I have to offer as regards Wisconsin in particular.

Com. Alldredge: Mr. Porter, do you have an explanation of the statistics on page 26?

The Witness: I haven't reached that portion yet, Mr. Commissioner.

Mr. Porter: We were just coming to that.

Com. Alldredge: Is it all right for me to ask a question

Mr. Porter: Yes, surely.

Com. Alldredge: I am struck there with the large amount and the large percentage relation, apparently, of the freight moving on what you show as the minimum charge. You will explain that as you get to it, will you?

[fol. 2665] The Witness: I might state right now, Mr. Commissioner, that all the data used here are taken from the American Association of Railways, the analysis they made of l. c. l. traffic for the week period from September 8, I think, to September 14, 1939, and I have simply used the data as they presented it there. I haven't made any particular explanation of the portions beyond the data for which definite ratings with relation to first class could be ascertained.

By Com. Alldredge:

Q. Then in your analysis of it, were you impressed by the apparent fact that more freight moved at the minimum charge than was usually thought to move?

A. Now, you give me a——

Q. Look at page 26 of your exhibit.

A. Page 26, yes, sir.

Q. Over in the left-hand side——

A. Am I right, you are referring to that figure of 13,544,000 as the minimum charge?

Q. No, the 14,000,000.

A. 14,081,000.

Q. Or 5.3 of the rated total.

A. I would say it was due to the fact there must be a large number of shipments of small weight. That would be the deduction I would make, but I have no direct knowledge. I had no hand, or part in——

Com. Alldredge: That was the deduction I made but I [fol. 2666] was just a little bit startled about the amount of it.

By Mr. Porter:

Q. This is just on your l. c. l. traffic?

A. Oh, yes; all the data on these four pages.

By Com. Alldredge:

Q. It would hardly be in carload traffic, minimum charge.

A. It mig..t be a minimum rate but not minimum charge.

The data on the last five pages of the exhibit are intended to demonstrate, first, that the pattern of cost rates is entirely different from the pattern of class rates and, second, that any assumption that the distribution of class rate traffic is the same or approximaely the same throughout all parts of the country is likely to be erroneous. The outstanding characteristic of class rate structures is that the rates are all tied together by the fact the fixed relationships between the various classes. I might say in that regard, I was very greatly surprised at Mr. Radke's testimony yesterday as to the extent of deviation there was from those fixed percentages. However, I think it is a general principle that there is that fixed relationship between classes.

The data on page 25 shows that du rn aecost basis, the relationship between rates for different loadings, both l.c.l.

and carload, are constantly changing as the distance changes, and, second, that the direction of change for carload traffic is directly opposite to the direction of change for [fol. 2667] l.c.l. traffic.

At the bottom half of the page are shown the percentages that the cost for various loadings, both l.c.l. and c.l., bear to the cost for a two-ton l.c.l. load, the various lengths of haul. The percentages for an eight-ton l.c.l. loading are 63.2 at 10 miles, and 53.6 at 100 miles, 40.5 500 miles, 36.3 at a thousand miles and 32.6 at 3,000 miles. The 3,000-mile percentage of the 8-ton cost to the 2-ton cost is barely half of that for 10 miles. For l.c.l. loadings the percentage drops as the distance increases. For a 30-ton carload loading, the costs are 5.8 per cent at 10 miles, and 6.6 per cent at 100 miles, 7.5 per cent at 500 miles, 7.9 at a thousand miles, and 8.2 at 3,000 miles. Where, for the l.c.l. comparison I made, the percentage for 3,000 miles was barely half of that for 10 miles, for the carload loading that I have picked —and the same would apply to all the others, I am simply using 30 tons as an illustration—the percentage of the 3,000-mile cost to the 10-mile cost, that is, the percentage of the relationship to a 2-ton l.c.l. loading is 136 per cent. In other words, as the distance increases, the percentage increases. If, instead of the cost for a 2-ton l.c.l. loading, the cost for a 5-ton carload loading is used as a 100 per cent base, the percentage relationship for other higher loadings also increase as the distance increases. The figures are not [fol. 2668] shown on the exhibit but the 30-ton l.c.l. costs are 16.9 per cent of the 5-ton carload costs at 10 miles, 19 per cent at 50, 21.4 at 500, 22.3 at a thousand and 23.1 at 3,000 miles.

The point I wish to establish by this is that the general pattern of cost does not correspond to the class rate pattern. In other words, there is nothing approaching a fixed relationship.

By Chairman Aitchison:

Q. Well, that means this, doesn't it, that when you are going to have a fixed relation between classes and you have the variation in costs that is shown in the top bracket on page 25, you have got to do some accommodating or you have got to do some decreasing and increasing both, haven't you?

A. I would say it would bring up the second part of this showing, Mr. Chairman. In other words, you can't apply it to the individual parts of the class rate structure.

Q. You will have to talk louder; we can't hear you.

A. I beg your pardon?

Q. That is just it. I beg your pardon; I couldn't hear you.

A. I said that brings up the point of the second part of my analysis here as applied to class rate traffic. That is, in the first part of this page I show—or at least I won't say I show, but I have given a lead in that direction—that it is extremely difficult, if not impossible, to apply cost analysis to individual parts of the class rate structure. Now, in the [fol. 2669] second portion——

Q. Well, this generalization could be made from another page, could it not?

A. I was just bringing that up, in contrast.

Q. Let me see whether or not I have caught your inference, that with respect to the l.c.l., the curve is much flatter than it is for a carload, the curve of costs, as distances increase? Let me illustrate that.

A. Yes, I think it would be, Mr. Chairman. I haven't examined it particularly in that regard.

Chairman Aitchison: Off the record just a minute.

(Discussion off the record.)

The Witness: I think that pages 26, 27 and 28 have a bearing on whether the relative general cost levels in the various territories can, by themselves, be considered as a proper measure from the cost standpoint of what the relative class rate levels in the various territories should be. My definition of class rates is rates which not only properly reflect the cost for each and every one of the operations incident to handling the traffic, but which, when applied back to the actual traffic, will produce revenues equal to the total cost for all the different operations.

To illustrate what I have in mind, and for simplicity, we will confine it to the l.c.l. traffic only.

By Mr. Porter:

Q. Now, will you paraphrase that, Mr. Schreiber. Elab- [fol. 2670] orate somewhat on it so that we can——

A. Cost rates, in general, aren't worth anything if, when you apply them back to the traffic, they won't produce a

revenue equal to the total cost which you had to start with and which you then broke up between the different operations in order to get your cost scales. Does that explain it?

Mr. Porter: Yes.

The Witness: Is that what you have in mind?

By Chairman Aitchison:

Q. You said something about applied to each and every rate. I didn't catch that.

A. No, I said reflect the cost for each.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

The Witness: Cost rates are rates which not only properly reflect the cost for each and every one of the operations incident to handling the traffic—by "operations" I mean such things as platform labor, switching, line-haul costs, and so forth—but I add this proviso, that the cost rates, when applied back to the actual traffic, will produce revenues equal to the total costs, and I say for all the different items, it is simply the total cost with which you started out before you started breaking it up between the different operations.

By Mr. Plunkett:

Q. Mr. Schreiber, when you say will produce revenue, you mean will produce the costs?

[fol. 2671] A. No, I mean revenues equal to the cost. That is how I phrased it here, Mr. Plunkett.

By Chairman Aitchison:

Q. Well, shouldn't it produce 100 per cent of the amount you started to distribute?

A. Yes, that is the point.

Q. That may or may not be revenue. Cost is one thing and revenue is another.

A. No, but my proposition is that the revenue which the cost scales, when applied to the traffic would produce, would produce revenues equal to the total costs. When you apply rates which are cost rates in the form of scales, you produce revenues; you don't produce costs.

Q. You don't produce revenue until you go into business. You just simply produce another figure in your cost study. It is a check back, it is multiplying instead of dividing.

A. All right, we will accept that, but I think you understand what I have in mind, Mr. Commissioner. I do; I hope you do.

Q. I think we do.

A. To illustrate what I have in mind, if you assume that two territories, as regards their l.c.l. traffic, were absolutely identical and had the same total and unit l.c.l. cost, but that all the traffic in one of them, Territory A, moved at first class but that all the traffic in Territory B moved at fourth class, 50 per cent of first class, the traffic in the second region would produce only one-half of the revenues if you applied [fol. 2672] those to determine relative scales within the two territories.

Q. You wouldn't do that, though. You would start out with the premise that there was a million dollars, or whatever it was was the total cost in the one territory, and the million dollars in the other.

A. I think I said not only total but unit, l.c.l. costs. Really, the unit cost is the main proposition.

Chairman Aitchison: Well, go on; let's see where this takes us.

The Witness: Will you read that last.

(Record read:)

The Witness: If you applied that and if those actual costs were the same and then you then assumed that, for that reason, because the unit costs were the same, the first class rates should be the same, why, the traffic in the second territory would actually produce only one-half as much revenue as the traffic in the other. In other words, you have to take into account, when you are dealing with class rate traffic as a whole, the distribution of traffic between classes.

By Com. Splawn:

Q. Assuming that we would adopt what you just read as part of the record, what finding would you then make,—recommend that we make?

A. The finding would have to be that the showing of rela- [fol. 2673] tive costs would not be conclusive in itself as to what proper relative levels of rates should be, but that the

levels of costs would have to be taken in conjunction with the distribution of traffic between the various classes. I am afraid I am expressing it pretty crudely, Mr. Chairman.

By Chairman Aitchison:

Q. You would have to include a few other things, would you?

A. Oh, I am just giving the bare outlines.

Q. Such things as balance, service, have some importance?

A. I am speaking from a cost standpoint.

Q. Also a matter of public policy?

A. Finally I think you would have to give consideration to such factors, but when you are speaking strictly from a cost standpoint, you wouldn't take up those factors.

By Mr. Porter:

Q. In other words, your criticism goes merely to the use of average costs for making class rate scales, the use of those and those alone?

A. That is correct, yes.

Q. Now, does the traffic in the various territories which has been reviewed in these pages vary as between the distribution between classs?

A. It does.

Q. In other words, does one territory have the same average class as another?

A. It does not. There is very, very considerable variation [fol. 2674] between the general territories, and then there is the further variation as between individual parts of the broader territories; and to bring out that point is the purpose of the last portion of the exhibit.

The mechanics of the exhibit, referring to pages 26, 27 and 28, using the intraterritorial traffic in Official Territory, for illustration, are this. In Column B are set down the actual accounts of traffic for each percentage of first class rating. In Column D, under the heading "First Class Equivalent Pounds" is set down for each rating the number of pounds that at first class would produce the same revenue as the actual number of pounds for the actual rating. To illustrate further, Column D——

By Chairman Aitchison:

Q. How do you get that? Just explain. We are all anxious to know.

A. I was going a little bit further, Mr. Commissioner. I think it would make that clear.

Q. All right.

A. To illustrate further, Column D shows 58,754,823 pounds, actual pounds carried at a 70 rating. Well, now, 41,828,375 pounds carried at first class would produce the same revenue; in other words, the 41,000 is 70 per cent.

Q. 41,000?

A. Pardon me?

Q. 41,000?

[fol. 2675] A. 41,000,000 is 70 per cent of the 59,000.---. That computation is carried out for each rating.

By Com. Alldredge:

Q. Now, coming back to my minimum charge question, that is half as important as the fourth class rate in determining the revenues on less than carload traffic, isn't it?

A. Well, Mr. Commissioner, I have paid practically no attention to the traffic carried on minimum charges, for the reason that cannot be distributed between classes as it was set up in the AAR study.

Q. I know, but I am just asking you if that isn't what your figure shows here on the exhibit.

A. It shows that the minimum charge traffic in pounds amounted to 5.3 per cent of the total number of pounds for which ratings were given. Does that answer your question?

Q. No, it doesn't answer my question. What I was trying to find out is the relative importance of the minimum charge on less than carload traffic, and I inferred from what you show here that it is about half as important, or instance, as fourth class. Is that right?

A. Why, fourth class here shows 24,000,000—yes, there were 24,000,000 pounds carried at 50 per cent, at a rating of 50 per cent, whereas this shows 14,000,000 carried under minimum charges. That is correct. I didn't catch the drift of your question; my apologies.

[fol. 2676] By Mr. Porter:

Q. Now, does it follow that one would be half as important as the other merely because you had half as much tonnage under a minimum charge as you had under the other?

A. No, it wouldn't. The revenues would be a better measure, and we might say in that connection that this same set-up could be built up from a revenue standpoint. As a matter of fact, we did set this up from a revenue standpoint and our general results coincided close enough, so we thought it would be redundant to give both portions.

By Com. Alldredge:

Q. Well, my purpose was to find out just how important the minimum charge is; so far, to my personal knowledge heretofore, it hasn't been reckoned with, it has been largely overlooked, and I was just trying to get some gauge to determine how important it is. That is the only significance.

A. Mr. Commissioner, I don't know how much of that AAR l. c. l. study has been introduced into the record, but I know that the original record as taken off, that is the original study, I am quite certain showed the revenue derived from minimum charges.

Q. Yes, but basing it——

A. But I haven't got it here.

Q. That is all right, but basing it upon the amount of tonnage that it covers, it is about as important as fourth [fol. 2677] class, is that right?

A. Fourth class—I assume that you are referring to the 50 per cent rating here. Yes, there were 14,000,000 pounds carried under minimum charges and 24,000,000 under a 50 per cent of first class rating.

By Chairman Aitchison:

Q. Instead of revenue, don't you really mean hypothetical revenue?

A. Yes, I have used the—hypothetical, I think, would be better. It would be better to introduce that phrase.

Q. You are not comparing Dr. Edwards' costs as applied in this method with the revenue which was actually derived by the Class I carriers in Official Territory, September 8 to 14, 1939?

A. No, I am only giving the number of pounds, and I simply tried to use that word "revenue" to illustrate what

I meant by "first class equivalent pounds." That was all. As I said, I could just as well have used the revenue portion of the AAR study and derived the hypothetical revenue for the actual number of pounds carried at first class in comparison with the actual revenues for the actual class.

The item I show standing out by itself under Column E, H and K, is what I call the average class. In other words, it is——

Q. Average what?

A. Average class. In other words, it is simply the num-
[fol. 2678] ber of first class equivalent pounds derived by the actual number of pounds *derived by the actual number of pounds.* In reality, that 65.9 could properly have been shown under Column C, although it is a per cent of rated total,—no, it isn't properly a per cent of rated total, but it is a relationship of the same type. For the intraterritorial traffic, the average class is shown as 65.9 per cent of first class. For all traffic originated in Official Classification Territory, it was 66.6 per cent, and for all terminated in Official Classification Territory, it was 66.1 per cent. The corresponding average classes for Southern Classification Territory, shown on page 27, are 56.1, 59.0 and 61.1.

Q. Now, were the consists of the movements in the three territories, intraterritorially in each, comparable for these 7 days of 1939?

A. I am not sure I get what you have in mind, Mr. Chairman.

Q. Well, if in one of the territories the preponderating movement was of low-grade and in another high-grade commodities, would it account for these differences in these three figures which you have set up in the columns by themselves?

A. That is the very thing it is intended to show, Mr. Chairman. I thought you might possibly have in mind as to whether the particular period was a representative period. As to that, I cannot say.

Q. Well, it also would reflect what the policy was with
[fol. 2679] respect to whether there was a wide or a close distribution of rates according to classes, because these go back not to costs, these are percentages of costs, but they are percentages of rates which were fixed by the carrier or by the Commission?

A. Yes, sir.

Q. Without reference to cost?

A. Yes, sir, you are right.

Q. So that your figure here, your average class is a composite of both costs and charges?

A. I don't see how it is a composite of costs, Mr. Commissioner.

Q. Well, you have used Dr. Edwards' plan, haven't you, here? Oh, I see, you——

A. In this page there is absolutely no reference to Dr. Edwards' studies.

Q. I see. Then you are correct on that. But this, then, does relate to the policy which dictates whether the spread would be wide or narrow between the classes?

A. It would reflect that, yes, sir.

Q. Absolutely. That is the explanation, isn't it?

A. Well, it would reflect policies and also it would reflect what happened to be the class of traffic which was offered.

Q. The two things?

A. The two of them combined.

[fol. 2680] Q. Now, can you segregate those two with respect to their influence on these divergent percentages which you have given?

A. I don't see any way to.

Q. Do you take any exception to this statement, based upon this, that as far as the l. c. l. traffic is concerned, it lies somewhat below third class and above fourth in all of the three territories?

A. It would be above fourth and below third, yes, in all three territories, when you take the territories as a whole. If you take the separate parts of those territories, you will get wider variations.

Q. One other thing. Western Classification Territory includes Mountain Pacific, doesn't it?

A. Yes, sir.

Q. In the remainder of the territory what percentage is fourth class of first?

A. I think that can be derived from the original AAR study, but I have not got the data here. There is this breakdown of the Western Classification Territory as shown at the bottom of the page. That is, I show what the intra-territorial, as directly reported——

Q. You aren't answering my question at all.

A. I am trying to.

Q. In the Mountain Pacific Territory, fourth class is 60 per cent of first. How much is it in your territory?

[fol. 2681] A. 55, I believe.

Mr. Porter: 55.

By Chairman Aitchison:

Q. That makes a difference, too, doesn't it?

A. I have disregarded what the ratings are, so far as this study is concerned.

Q. Yes, I know.

A. That is what fourth class was.

Q. But on your last page but one, you have got two territories mixed; you have got Mountain Pacific and the remainder of the Western Classification Territory, and in one of them your fourth class rate is 60 and in the other 55 per cent of first.

A. Yes. I have given consideration to both ratings here.

By Mr. Porter:

Q. Were you concerned with whether you called it fourth class or some other class or were you concerned with the column or percentage shown?

A. I was concerned with the percentage rating rather than whether you call it a column rating or a class or what.

Chairman Aitchison: Very well.

By Chairman Aitchison:

Q. Now, just take that very suggestion that I made a minute ago and follow it through. On your Western Classification Territory, take a given shipment and a precisely similar shipment in the eastern portion of the Western Classification Territory. Now, if it was in the Mountain [fol. 2682] Pacific Territory, and took fourth class, it would fall in your over 55 and under 70 group, wouldn't it?

A. Yes, I assume——

Q. And in the remainder of the territory, it would fall under the following line, 55 per cent, wouldn't it?

A. Fourth class at 55, yes.

Q. Now, fourth class is the one which carries the bulk of your l. c. l. traffic, isn't it?

A. Are you referring to in general or to a specific territory?

Q. In general. The largest amount of your l. c. l. traffic goes fourth class?

A. I have always been under that—labored under that assumption. Here, for Official Territory——

Q. I am talking about the Western Classification Territory.

A. That was my question, as to whether you were referring to one territory or another or all of them combined.

Q. Oh, I couldn't hear you. It is a little hard to get together.

A. For the Western Territory, the 55 per cent or fourth class accounted for 28 per cent of the total.

Q. And in addition——

A. Intraterritorially.

Q. And, in addition, part of your 7.9 per cent in the line above is also fourth class?

A. Yes. It would be that which related to the inter-[fol. 2683] mountain country, if I am right, that they travel at 60 per cent.

Q. Now, what have you done with your multiple rates? They are just insignificant, are they?

A. Mr. Chairman, when I show a gradation, as I show in here, I have simply taken the summation of individual computations. That is, I would take the actual rating and then take the summation for each of those individual ratings and I show only the summation here, because it would simply spread the sheet out forever if I covered the whole thing.

Q. Well, it came so close to being 12, I wondered if you had taken that?

A. No, I did not. There was an actual computation to carry it out, just exactly as I have here, for the individual classes, for which absolutely definite ratings could be gotten, or given.

Chairman Aitchison: Proceed, Mr. Porter.

By Mr. Porter:

Q. Will you proceed, Mr. Schreiber.

The Witness: Off the record.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

The Witness: For Western Classification Territory, the average class for intraterritorial traffic was 68.9, for total originated 69.2, and for total terminated 69.5. Now, these figures for average class, of course, were given. In addition to that, there is other traffic which moved under any [fol. 2684] quantity rates and commodity rates and minimum charges and under pick-up and delivery rates.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

The Witness: For fear they may have been omitted, the figures for Southern Classification Territory were 56.1 for intraterritorial, 59.0 for total originated, and 61.1 for total terminated. I am sure the Official figures were given.

Chairman Aitchison: Yes.

The Witness: Of course, this extra traffic couldn't be given a rating, so I merely show below the rated totals what the relationship of this other traffic is to the rated traffic.

By Chairman Aitchison:

Q. Now, you heard the testimony here with respect to these 2,000 plus exceptions in Southern Territory.

A. I am afraid I didn't, Mr. Commissioner.

Q. Well, assume that there was a very large number of exceptions to the classification basis of l.c.l. charges. There is proportionally more in one tariff than another. The tariff which has the greatest number of those classification ratings would have the smallest percentages which you just quoted, wouldn't it, other things being equal?

A. If they were given ratings of such a character that [fol. 2685] they could be reduced to a percentage of first class and it would affect the average classes, as I have developed them.

Q. It must be that way, mustn't it? Where, in any class rate scale, for instance, do you find l.c.l. ratings under 20, under the classification?

A. I couldn't answer that. I am not familiar enough with the classifications in and of themselves to tell you whether there is any rating which is under 20 or not.

Q. That is along about Class E normally, isn't it?

A. I couldn't tell you. I don't know the lower classes at all. Incidentally, except in Southern, there is very little traffic carried at under 20.

The traffic which could not be rated for Official Classification Territory amounted to 10.4 per cent of the traffic for which ratings were given. Of that 10 per cent, 5.1 per cent were made up of tonnage carried at commodity rates and 5.3 per cent of tonnage carried under minimum charges. For the corresponding intraterritorial traffic in Southern Classification Territory, the non-rated traffic amounted to 143.9 per cent of the rated traffic, and of this 143.9 per cent, 139.2 per cent represented traffic carried at commodity rates and 4.7 per cent carried at minimum charges. For the intraterritorial traffic of Western Classification Territory, the non-rated traffic, as I have used the term here, amounted to 47.5 per cent of the rated total, of which 40 per cent was made up of commodity—traffic moving [fol. 2686] under commodity rates, 7.4 under minimum charges and .1 per cent under pick-up and delivery. I am giving only the figures for the intraterritorial. The figures for the other total originated and total terminated also appear.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

By Chairman Aitchison:

Q. I am wondering whether or not there haven't some any-quantity movements gotten into your upper brackets there, in these two territories, Southern and Western, which would possibly account for these abnormalities of finding l.c.l. rates down to 20 per cent or below.

A. I don't know, Mr. Chairman.

By Mr. Porter:

Q. Does that complete your explanation of the exhibit, Mr. Schreiber?

A. Yes, except I might add, the details by the individual origins and so forth are shown at the bottom of the pages and that these show wider variations as regards average class than do the totals as carried in the upper portion.

By Chairman Aitchison:

Q. I don't get that. I thought we were talking about intraterritorial.

A. The last, Mr. Chairman——

Q. The last two columns are your interterritorials, is that correct?

A. Well, my last statement related to the data in general, and of course, there is less detail to the intraterritorial [fol. 2687] than there is to the originated or the terminated. Incidentally, the total originated for Official Classification Territory, as shown here, consisted first of the intraterritorial traffic as reported by the eastern lines, second, the intraterritorial traffic is carried by the group known as the B. roads, which, if I remember right, was the Great Northern, Northern Pacific, and Milwaukee. It is a very small amount. The third item is the traffic which originated in Official Classification Territory but moved to Southern Territory and then so on through. I don't think it requires any further explanation, but I will go further with it if you so desire.

Q. Could you tell the amount of interterritorial traffic by substracting the total of the first block from either of the other totals?

A. Except in one instance—wait just one second, pardon me.

Q. I can't hear you, Mr. Schreiber.

A. For the Official Territory, you have to subtract the first two items as regards originated traffic. For Southern Territory, you can get the interterritorial by substracting the first item only. But for Western Classification Territory, you have to subtract the first three items.

Q. You and I aren't talking about the same thing. I am talking about the sections of your exhibit up and down. [fol. 2688] The first is marked "Intraterritorial", the next is "Total Originated" and "Total Terminated." Now, how can we get the interterritorial from those figures, or can we get it?

A. Oh, well, let me see just a second, Mr. Chairman. Well, it amounts to the same thing, the horizontal and vertical. You can subtract from the total originated the intraterritorial, which shows the tonnage originated in Official Territory but moving into other territories. Then subtracting the intraterritorial from the total terminated, you would get the amount from other territories which moved into Official Territory, but it so happens that same combination can be made at the bottom of the page. That is the reason——

Chairman Aitchison: Proceed.
Mr. Porter: Is that clear, Mr. Chairman?
Chairman Aitchison: Yes.
The Witness: That is all I have to offer on that.

By Mr. Porter:

Q. Is the exhibit true and correct, to the best of your knowledge and belief, Mr. Schreiber?
A. It is.

Mr. Porter: We offer it in evidence.
Chairman Aitchison: Without objection, it is received.

(Exhibit No. 135, Witness Schreiber, received in evidence.)

Mr. Porter: The witness is ready for cross-examination.
Mr. McCollester: I have just a couple of questions.

[fol. 2689] Cross-examination.

By Mr. McCollester:

Q. Mr. Schreiber, if, from your Exhibit 135, we wanted to find the progress, either backward or forward, in industrial development of the different sections of the country in recent years, is it to page 2 that we should turn?

A. Well, Mr. McCollester, that data is developed at far greater length in Exhibit 119.

Q. That may be so. But that is the purpose of page 2, is it not, of your exhibit, as well?

A. The last portion of the exhibit, the portion which vertically starts with, Changes in percentage of total 1920-1940, yes, that portion of it would trace trend as regards only occupations.

Q. Yes. Now, I want to be sure that I correctly interpret the showing on this exhibit. Having in mind the claim of the Southern states that the rate structure has hampered their industrial development, do you show or attempt to show on this exhibit that, as compared with the period from 1920 to 1940, the year 1940, for the states of Carolina, Georgia, and Florida, reflected a 6.6 per cent increase in workers employed in manufacturing and mechanical establishments as compared with a 3.6 per cent decrease for Group II, including my state, and a 3.1 per cent decrease for Wisconsin?

A. Will you excuse me just a second, Mr. McCollester.

[fol. 2690] Q. I am only asking you because I want to know how we should interpret the exhibit and see if my interpretation is correct.

A. Yes, I think your interpretation is correct. The 6.6, for instance, for the Carolinas, Georgia and Florida, relates to percentages of all occupations. If you mean it in the sense that it represents a 6.6 per cent increase in the number of persons engaged in manufacture, it does not mean that.

Q. That is what I wanted to find out. Then it does indicate, does it not, that those states have been turning to manufacuring, industry, because there has been a decrease of 20.6 per cent in the portion of their population engaged in agricultural pursuits and an increase of 6.6 per cent of those engaged in manufacturing, is that correct?

A. Those percentages have to be taken in connections with the changes for the United States as a whole, because the United States, the industry classification or occupational classification changed to some extent.

[fol. 2691] Q. In the United States as a whole, if I now correctly interpret this page of the exhibit—for the United States as a whole there was a decrease of .9 of 1 per cent in 1940 as compared with the 20-year period, of those engaging in manufacturing pursuits, that is gainfully employed, and a decrease of 7.5 per cent of those engaged in agriculture, forestry and fishing?

A. That is right.

Q. Is that correct?

A. That is right, yes.

Q. Whereas in the four southern states I named there has been a much greater decrease in the number engaged in agricultural pursuits and an increase in the proportion engaged in manufacturing?

A. That is correct, Mr. McCollester.

Q. Is that right?

A. Yes.

Q. There has been a decrease in the proportion engaged in manufacturing of 5.8 per cent in New England and 3.6 per cent in the Middle Atlantic states, is that right?

A. That is the showing, yes.

Q. Now, so far as the cost——

A. That is, if you use the words "percentage change" in the sense in which I have used them.

Q. In connection with the population?
[fol. 2692] A. Yes.

Mr. McCollester: Yes.

By Mr. McCollester:

Q. Now, so far as the matter of cost dealt with in the second portion of your exhibit is concerned, do I fairly state the conclusion which you reached and which you were endeavoring to support by the showing made in that portion of the exhibit, if I say that it is your conclusion that computed figures showing average cost of handling all freight cannot be made the basis of determining the relative levels as between different sections of the country of class rates or of the rates on any particular part of the total traffic movement of that part of the country?

A. There will be a lot of qualifications in there, Mr. McCollester. In general, the answer would be "yes". That is, your statement would coincide with my position, but as I say, there are a lot of qualifications, and it would take a half hour to cite them all. I do not know whether I could even think of them all or not.

Mr. McCollester: Let me put it to you this way, Mr. Schreiber:

By Mr. McCollester:

Q. If we have a showing that the average cost of handling all freight in the South is approximately the same as the computed average cost for handling all freight in Official territory, is it your opinion that on the basis of that showing and nothing more the Commission may properly order [fol. 2693] that the class rates in the South and in Official territory should be on the same level, mile for mile?

A. It is not.

Chairman Aitchison: Is that not our jurisdiction, to determine what we should properly do?

Mr. McCollester: I thought you might like the advice of an expert witness on the subject.

Chairman Aitchison: We will hear him on argument on that, but not in testimony.

Mr. McCollester: I thought he was called as an expert.

Chairman Aitchison: I know, but you just read the Union Pacific case, 222, and you will find that the reasonableness

of rates involves too many considerations to be proved by the categorical answers of expert witnesses.

Mr. McCollester: I think it is proper.

Chairman Aitchison: I do not. It involves the conclusion of the witness on the ultimate question which we are to determine here, and it is not helpful to us to have it.

Mr. McCollester: All right. I cannot very well take exception to the Commission's own objection.

Chairman Aitchison: His counsel, of course, and he can argue it.

Mr. McCollester: I have nothing further.

Chairman Aitchison: Is there any further cross-examina-
[fol. 2694] tion?

Mr. Smelker: I have two questions.

Chairman Aitchison: Mr. Smelker.

Mr. Smelker: For clarification.

By Mr. Smelker:

Q. Mr. Schreiber, will you refer to page 25 of your exhibit.

A. I have it before me.

Q. I would like to ask you if you have applied a test to your study shown on this page based on Dr. Edwards' Exhibit 12?

A. No, I have not. These are based on Exhibit No. 3, as I recall it, introduced at St. Louis a year ago. As I stated here, it is cost level No. 2 which includes carload and less than carload operating expenses, rents and taxes.

Q. Now, does not your showing on this page indicate that separate rates of progression should be applied, carload versus less than carload?

A. From a cost standpoint, yes.

Q. Now, in the second section——

A. These are purely matters of cost, Mr. Smelker.

Mr. Smelker: Yes.

By Mr. Smelker:

Q. Now, why in the second section of that page did you use two tons rather than four tons, for instance?

A. It would not matter what I used as a base, Mr. Smelker. The relationships would change in about the same way. I might say that by using two tons I rather
[fol. 2695] exaggerated the differences. I could have used any one of them.

Chairman Aitchison: You would have gotten different figures if you had?

The Witness: Yes.

Chairman Aitchison: Take your ten miles where you have 75 per cent for four tons as compared to the two tons. You have a constant for your five tons over here and your carload. Now, if you compare your five tons with four tons you have a different figure than if you compare it with two tons, in the ratio of 100 to 75.

The Witness: Your percentages will change, Mr. Chairman, but as to the general trend of the percentages, they follow the same general pattern. There will be variations in the amounts.

Chairman Aitchison: I thought you said you would get the same results.

The Witness: By "results" I mean the same general indications or direction of change. In other words, we have established that there is a constant changing percentage differential as the distance changes. You could just as well use any other loading here as a base.

By Mr. Smelker:

Q. The amount of variation would be less if you used a greater weight, would it not?

A. I think so, Mr. Smelker. I have not tested it, but I assume it would.

[fol. 2696] Mr. Smelker: That is all.

Chairman Aitchison: Are there any other questions on cross-examination? (No response.) Have you anything further, Mr. Porter?

Mr. Porter: Yes.

Redirect examination.

By Mr. Porter:

Q. Have you shown this information for all of the weights. Of course, the variation would be greater if you had chosen a loading of less than two tons?

A. Yes. I think so, Mr. Porter.

Q. Now, let us assume that we have the average unit costs in the various territories and that we make our rates predicated to reflect those costs. Will those rates applied to the traffic as it actually moves within the various terri-

tories bear a consistent relationship to the costs experienced within the territories respectively?

A. The revenues would depend upon the gradation of the traffic as between classes. If the low grade traffic predominated the revenues would be out of proportion. If you assume you start with equal cost, unit cost, the revenues produced by a region where, say, all the traffic was fourth class, would be only one-half of the revenues which would be produced by another territory where the traffic was entirely first class. Does that answer the question?

Mr. Porter: I think that answers the question.

[fol. 2697] Chairman Aitchison: I am glad you understood it, Mr. Porter, because none of the rest of us up here heard any of it. Will you read the answer, please, Mr. Reporter.

(Answer read.)

Chairman Aitchison: Proceed.

By Mr. Porter:

Q. Now, does page 25 demonstrate that assuming Dr. Edwards' cost analyses are absolutely correct—does this page demonstrate that you cannot predicate a scale of rates upon these costs which will bear a consistent relationship to various loadings into various lengths of haul?

A. Not as long as you keep a constant relationship between the classes.

Chairman Aitchison: Read the answer.

(Answer read.)

Mr. McCollester: Well, is the answer "Yes"? The question was, does page so-and-so demonstrate such-and-such. Perhaps we had better have the question read.

Chairman Aitchison: Read the question, please, Mr. Reporter.

(Question read.)

Mr. Porter: I think Mr. McCollester is right.

Mr. McCollester: The question can be answered "yes" or "no".

The Witness: You cannot, unless you take into consideration the factor as long as you assume a constant relation-

[fol. 2698] ship between classes.

By Mr. Porter:

Q. The page does demonstrate that you cannot do it?
A. Yes, sir.

Chairman Aitchison: As long as you assume a constant relation between the classes.
Mr. Porter: Yes.
Chairman Aitchison: Equal at all times.
The Witness: In other words, fourth is always assumed in one particular territory to be 50 per cent of first, and so on and so forth. Fourth might not necessarily be 50 per cent, but as long as it was a consistent percentage all the way through, that would be correct.
Chairman Aitchison: In each territory?
The Witness: In each territory, yes.
Mr. Porter: I think that is all I have from this witness.
Chairman Aitchison: Also as long as there were not any exceptions to it, is that right?
The Witness: Exceptions would throw things out of kilter, I am afraid, Mr. Chairman.
Chairman Aitchison: Are there any other questions from Mr. Schreiber? (No response.) You are excused.
(Witness excused.)

Chairman Aitchison: Call your next witness.
[fol. 2699] Mr. Porter: Mr. Laubenstein.
Chairman Aitchison: Raise your right hand be sworn.

R. J. Laubenstein was sworn and testified as follows:

Direct examination.

By Mr. Porter:

Q. Will you give the reporter your full name, please, Mr. Laubenstein.
A. My name is R. J. Laubenstein.
Q. Your residence?
A. I reside at Green Bay, Wisconsin.
Q. What is your occupation?
A. I am Traffic Commissioner of Green Bay Association of Commerce, a mutual organization formed among other purposes, to foster and develop the transportation interests of its members and of the community generally and to see

that just and reasonable and non-discriminatory rates and relationships of rates are accorded.

Q. You speak for the Green Bay Association of Commerce in this proceeding?

A. I do.

Q. Now, do you also speak for other communities immediately surrounding Green Bay?

A. Included in the membership of the Green Bay Association of Commerce, also on a mutual basis, are certain industries in nearby communities, for which I speak. For exam- [fol. 2670] ple, the fruit growing industry of Door County; there are three of them which grow, can and ship fruits. Then there is the Bond Pickle Company, Oconto, Wisconsin, packers of pickles and allied foodstuffs. There is also the Leyse Aluminum Company of Kewanee, Wisconsin, manufacturers of aluminum goods. There is also the Plummer Wood Work Company of Algoma, Wisconsin, manufacturers of wooden toilet seats, holders of paper articles and wood products. All of the above cities are near Green Bay in extended Zone C territory of Wisconsin.

Q. Will you recount briefly your traffic experience, Mr. Laubenstein.

A. I have been employed by the Association of Commerce in its traffic division for the past 23 years, previous to which I worked at rates and divisions in the general offices of the Green Bay and Western Railroad for approximately three years. I have a knowledge and an understanding of the general rate structure throughout the United States and many commodity rates. I have participated before the Commission in all of the major class rate investigations, particularly commodity rate investigations in which we were interested.

Q. Have you prepared for introduction in this proceeding, Mr. Laubenstein, an exhibit?

A. Yes, sir.

Mr. Porter: May we have this exhibit marked and given a number, Mr. Chairman?

[fol. 2701] Chairman Aitchison: It will be marked for identification as Exhibit No. 136.

(Exhibit 136, Witness Laubenstein, marked for identification.)

By Mr. Porter:

Q. Does Exhibit No. 136 bear an index on the cover page?

A. It does.

Q. This exhibit is true and correct to the best of your knowledge and belief, is it?

A. It is.

Q. Have you also prepared a statement which you are prepared either to read or have copied into this record which is made up with a cover page as an exhibit?

A. I have.

Q. Is this true and correct so far as you know and believe, Mr. Laubenstein?

A. It is.

Mr. Porter: If the Chairman please, we are perfectly willing to have this read into the record, copied into the record, or have it put in the record as an exhibit, whichever is preferable.

Chairman Aitchison: Does anyone care to hear it read, or have you all had an opportunity to read it? (No response.) It may be copied into the record.

(The statement is as follows:)

[fol. 2702] The City of Green Bay, Wisconsin, has a population of 46,235 according to the Federal Census of 1940, with a metropolitan area population of approximately 51,000. It is located in eastern Wisconsin at the mouth of the Fox River and Green Bay, an arm of Lake Michigan, 112 miles north of Milwaukee, 31 miles northwest of Manitowoc, and 36 miles northwest of Kewaunee, Wisconsin, by rail.

De Pere has a population of 6,373 and is located four miles south of Green Bay on the Fox River. Kewaunee has a population of 2,533 and is a car ferry port on Lake Michigan, served by the Ann Arbor and Pere Marquette Railroad and car ferry lines. Sturgeon Bay has a population of 5,439 and is 31 miles north of Kewaunee on Lake Michigan. Oconto has a population of 5,362 and is located on Green Bay 25 miles north of the city of Green Bay, intermediate between Green Bay and Marinette, Wisconsin, and Menominee, Michigan, another car ferry port served by the Ann Arbor Railroad, which is 50 miles north of the city of Green Bay.

The city of Green Bay is served by the Chicago and North Western Railway Company, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, the Green Bay and Western Railroad and the Kewaunee, Green Bay and Western Railroad, which afford rail transportation in every direction, there being eight lines radiating from the city. De Pere is serve by the Chicago and North Western Railway Company and the Chicago, Milwaukee, St. Paul and [fol. 2703] Pacific Railroad Company, and by water service, there being an 18 foot draft channel for water transportation from Green Bay. Green Bay itself has a 22 foot draft channel. Its port facilities and proximity to the greatest portion of Western Trunk Line territory have made Green Bay outstanding among the Lake Michigan ports and these advantages have resulted in a large volume of water-borne commerce at the port of Green Bay. There is a 6 foot channel from the Fox River south of De Pere extending to Lake Winnebago serving the important communities of Kaukauna, Appleton, Oshkosh and Fond du Lac, which forms the western border of Extended Zone C territory in Wisconsin and has contributed greatly to the industrial development of that territory.

Six paved Federal and State highways converge at Green Bay and approximately 25 common motor carriers of property, 8 motor bus lines and numerous contract motor carriers operate in all directions from Green Bay. These competitive transportation agencies have been an important factor in our rate structure as well as the industrial growth of our communities and territory. Coordination of rail, water and motor services available through this port has been recognized from a transportation and ratemaking standpoint. Each of the railroads have both extensive warehouse and dock facilities on the waterfront for the exchange of freight. Many of the larger industries at Green Bay maintain their [fol. 2704] own docks and warehouses. The City of Green Bay maintains a municipal wharf free to the public.

Nicholson Universal Steamship Company, Spokane Steamship Company, Federal Motorship Corporation, The Great Lakes Transit Company, and many other contract steamship lines make Green Bay a port of call. Bulk cargo vessels bring in coal, woodpulp, pulpwood, sugar, iron and steel, sulphur, petroleum products and cement. Grain, paper, canned goods, cheese and dairy products are the principal products shipped by water from Green Bay. The Fed-

eral Government has spent more than two and a half million dollars, exclusive of maintenance, on Green Bay Harbor since they took over the project in June, 1866.

The important industries located at Green Bay and De Pere, Wisconsin, are paper and paper articles, cheese manufacturing and concentrating, canned vegetables and pickles, power shovels, cranes, derricks and drag lines, paper mill machinery, iron working and precision machinery, automobile parts, structural and sheet articles, sugar, meat packing, etc.

Green Bay ranks first in tissue paper production in the United States, particularly of toilet, towels, napkins, and woodpulp cellulose products. More than 4,000 carloads of these articles are shipped annually from Green Bay. Our competition on these articles comes principally from points [fol. 2705] located in the East such as Chester and Swarthmore, Pennsylvania; Hinsdale and Berlin, New Hampshire; Irving, Massachusetts; Albany, Carthage, Hoosick, Watertown, Utica, Fulton, Niagara and New York, New York; Cleveland, Ohio, and a large number of other mills scattered throughout Official Classification territory. Paper mills outside of Extended Zone C territory in Wisconsin, and mills in south and southwestern United States make little, if any, of these classes of paper. Official territory is the greatest market for our papers.

Green Bay is the largest single cheese manufacturing, concentration and shipping center in the United States. Approximately 6,000 carloads are shipped annually. The market for this commodity is principally in the East and South. Likewise the competition comes principally from the state of New York, Extended Zone C and Illinois Freight Association territory in Wisconsin and northern Illinois.

The competition of Green Bay manufacturers of cranes, derricks, power shovels and hoisting and conveying machinery is principally located at Milwaukee, Wisconsin; Chicago, Illinois; Lima, Marion and Lorain, Ohio; Erie, Pennsylvania; and other Official territory points, as is the case of paper mill and iron working machinery. As much of the materials and parts come from Official territory and the finished article is sold in competition with those points we should have a competitive level of rates and classification. [fol. 2706] Most of these commodities are sold on bids and freight rates and charges are an important factor in selling the articles. Our manufacturers of canned vegetables,

pickles and fruits at Green Bay, Sturgeon Bay, and Oconto must meet the competition principally of those in Illinois and Official territory since our principal markets are in Official territory. Approximately 800 carloads are moved to the East annually.

What has been said of the competitive markets of the specific commodities mentioned is true to a very large extent to our other industries. For example, automobile parts, tractor and engine parts are both manufactured and used principally in Official territory at such points as Milwaukee, Wisconsin; Chicago, Illinois; South Bend, Indiana; Flint, Detroit, and Muskegon, Michigan. These manufacturers move their commodities under the Official classification and the eastern class rate scale, and in many instances have the additional advantage of Great Lakes and coastwise water rates and services.

Green Bay, next to Milwaukee, is the largest jobbing and distributing point in Wisconsin. Groceries, hardware, produce, building supplies, plumbing supplies, iron and steel mill supplies, electrical supplies, constitute the principal articles sold. Most of these commodities originate in Official or Illinois territory and Green Bay jobbers must meet the competition of jobbers and wholesalers who are located [fol. 2707] for the most part at Milwaukee, Chicago and Detroit.

Because of its location Green Bay has also become one of the largest merchandise and bulk storage warehousing points on the Great Lakes. The rate structure and relationship of rates with our principal competitors in this business, which are Milwaukee and Chicago, are important factors in this business.

The rate structure between Green Bay, Wisconsin, and points in the various rate territories throughout the United States involved in this proceeding is briefly as follows. The same basis is generally applicable between those territories and other points for which I speak. Class rates and rates on certain specific commodities between Green Bay and points in Official, Illinois, and Western Trunk Line territory were prescribed by the Commission in Docket 17000, Part 2, Western Trunk Line Class Rates, (173 I.C.C. 637) and supplemental orders.

Between Green Bay and Official territory, except Illinois territory, key point rates were established on the level and basis of rates prescribed in Docket No. 15879, Eastern

Class Rate Investigation (164 I.C.C. 314) governed by the Official Classification and exceptions. Zone C arbitraries prescribed in the latter case were added where short line distances pass through Zone C in Lower Michigan. In Docket 17000, Part 2, the Commission extended Zone C [fol. 2708] territory into Wisconsin to include Green Bay and points south thereof, and applied the same arbitraries within the portion of the haul in that territory. However, between Trunk Line and New England territories and West Bank Lake Michigan ports the class rates had been fixed in the Eastern Class Rate Investigation and the carriers thereafter voluntarily reduced rates from and to West Bank Lake Michigan ports. Thereupon the lines serving Green Bay made adjustment in our rates to the same extent effective prior to and at the time rates were established in the Western Class Rate case. For example, the reduction in the first class rate between New York City and Green Bay was 7 cents. Rates between Green Bay and other points in Extended Zone C territory and Illinois territory were also fixed on the basis of the 15879 scale plus Extended Zone C arbitraries for that portion of haul north of Illinois Freight Association territory in Wisconsin which is roughly on and south of lines from Milwaukee to Madison, Wisconsin. The Western Classification however was prescribed, notwithstanding the Official Classification applies within the state of Wisconsin on intrastate traffic and within Illinois territory including Southern Wisconsin and interterritorially between Northwest territory and Official territory. This has caused considerable difficulty by requiring minimum rate sections in tariffs and in establishing proper and relative exceptions to the classification.

[fol. 2709] Class rates between points in Western Trunk Line territory, including Green Bay and other Extended Zone C points in Wisconsin, were prescribed by the Commission in Docket 17000, Part 2, Western Trunk Line Class Rates, (164 I. C. C. 1) and supplemental reports on a distance basis by use of the basic scales of rates plus differentials for the distances in the various Western Trunk Line zones. For any portion of the distances traversed in Extended Zone C territory differentials as named in Appendix L of the original report are added to the basic scale. The Western Classification and exceptions apply.

Between Green Bay and Southern territory, including Mississippi Valley territory, class rates were prescribed in

Docket 26510, Western-Southern Class Rates (226 I. C. C. 497) and supplemental reports governed by the Southern Classification in both directions and exceptions thereto as applicable from and to Illinois territory and the south. Key point rates on the basis of rates applicable between Illinois and Central Freight Association territory on the one hand and Southern territory on the other with the addition of Extended Zone C arbitraries for the distance through that territory, were prescribed.

Rates between Green Bay, Wisconsin, and points in Southwestern territory were prescribed by the Commission in Docket No. 13535, Consolidated Southwestern Cases [fol. 2710] (205 I. C. C. 601) and supplemental reports, espically the eighth supplemental report decided July 1, 1930, (164 I. C. C. 565). Green Bay in that decision is under Group 45 under which group a 20 cent first class arbitrary over Milwaukee is added to and from points east of the Neosho-Laredo line, and 11 cents first class to and from points west of the Neosho-Laredo line. The Western Classification and exceptions apply in both directions.

Rail-lake-and-rail, rail and lake, and lake and rail rates between Official territory and Green Bay were prescribed by the Commission in Investigation and Suspension Docket No. 3662, decided January 7, 1935, (205 I. C. C. 101) and supplemental orders. Briefly the differential under our all rail rates is 12 cents first class with relative amounts on the lower classes. Our rates apply through the ports of Milwaukee and Chicago and no direct rates to Green Bay harbor have been established. We participated in the above case for the purpose of obtaining proper adjustment of rates, but the Commission did not see fit to provide them, either as a result of that proceeding or the complaint brought by the Nicholson Universal Steamship Company in Docket 26143. Lake lines make the port of Green Bay in connection with their contract carrier service, but not in connection with common carrier service.

Green Bay is nearer to Lake Erie and Lake Ontario [fol. 2711] ports than is Milwaukee, Chicago and Duluth, by 61 miles, 126 miles, and 219 miles respectively, according to official lake distances of the Corps of Engineers of the War Department. To the important points of Minneapolis and St. Paul, which use rail-lake and-rail rates, the route through the port of Green Bay is shorter via Green

Bay than via Milwaukee by 98 miles than via Chicago by 243 miles, than via Duluth by 81 miles.

By Mr. Porter:

Q. Mr. Laubenstein, do you and your Association concur generally in the position which was taken or stated by Mr. Davy on behalf of the interests in the State of Wisconsin?

A. Yes, except that I am of the opinion that the imposition of Zone C arbitraries on traffic within Extended Zone C in Wisconsin should be removed immediately. Extended Zone C in Wisconsin should be treated as an integral part of Central Freight Association territory, with respect to the level and construction of rates in the governing classifications. This would mean that we would have the basic Eastern Class Rate Scale governed by the Official Classification not only between Green Bay and Official points, but also between Green Bay and Illinois territory in the same manner and degree as provided for that part of Illinois Freight Association territory located in Southern Wisconsin, that is south of the Madison-Milwaukee line. The general exceptions to the classification which apply [fol. 2712] within Central Freight Association territory should likewise apply to and from Green Bay on traffic to and from Illinois territory and Official territory. In support of this position we rely upon the record herein made and particularly upon the exhibits, testimony and so forth introduced on behalf of the State of Wisconsin, and by Mr. Schreiber and Dr. McCarty on behalf of four states of Wisconsin, Minnesota, Iowa and Missouri.

Q. Does that complete your presentation?

A. It does, Mr. Porter, except I would like to state that my experience with the Association of Commerce has given me a very thorough understanding of the needs and requirements of our members, their markets and their transportation problems, and that I was authorized by our Traffic Committee and Board of Directors to appear in this proceeding.

Mr. Porter: That completes the witness' direct testimony, Mr. Chairman.

Chairman Aitchison: Do you offer your exhibit?

Mr. Porter: Yes, thank you. We offer the exhibit in evidence.

Chairman Aitchison: Without objection, it is received.

(Exhibit 136, Witness Laubenstein, received in evidence.)

Chairman Aitchison: Is there any cross-examination? (No response.) There seems to be none. You are excused.

(Witness excused.)

[fol. 2713] Chairman Aitchison: Mr. Donnelly, are you ready to go ahead now?

Mr. Donnelly: Yes. Call Mr. Huntting. We will ask to have this exhibit which is of letterhead size and which consists of 11 pages marked as the next exhibit, Mr. Chairman.

Chairman Aitchison: It may be marked for identification as Exhibit No. 137.

(Exhibit 137 marked for identification.)

Chairman Aitchison: Be sworn, Mr. Huntting.

J. C. Huntting was sworn and testified as follows:

Direct examination.

By Mr. Donnelly:

Q. Will you give the reporter your full name, please, Mr. Huntting.

A. J. C. Huntting.

Q. Your business address?

A. York, Pennsylvania.

Q. By whom are you employed?

A. The American Chain & Cable Company.

Q. What is your position with that company?

A. General traffic manager.

Q. How long have you been employed by that company?

A. Since 1923.

Q. Have you had any other traffic experience?

A. Yes. I was assistant traffic manager for a number of [fol. 2714] years of the Stanley Works, New Britain, Connecticut. Prior to that I spent about 11 years in the New Haven Railroad.

Q. You understand this is a class rate and classification ratings investigation, do you?

A. I do.

Q. For whom are you authorized to appear?

A. For the members of the Chain Institute, whose names and locations are on the first page of the exhibit.

Q. Before you refer to the exhibit, can you state approximately the per cent of the total production of the materials that are shown here which these companies produce?

A. Practically all.

Q. What are those commodities?

A. Those commodities are listed on pages 5 and 6.

Q. Before you come to that, have you prepared an exhibit showing a statement of facts and a list of commodities?

A. Yes, sir.

Q. Is that true and correct, to the best of your knowledge and belief?

A. It is.

Q. What does it generally show, Mr. Huntting?

A. Pages 2, 3 and 4 show a statement of facts as regards the classification ratings proper within the several territories. Pages 5 and 6 show the classification ratings on the articles as shown therein.

[fol. 2715] Q. These shippers shown on page 1 of your exhibit ship all of the materials that are shown in the exhibit?

A. As a group they do. There may be some who do not make all of these materials.

Chairman Aitchison: Well, are these ratings of yours published in the classification as percentage relations?

The Witness: I did not get your question, Mr. Chairman.

Chairman Aitchison: Read the question.

(Question read.)

The Witness: They are the classification ratings, sir, as shown on pages 5 and 6; the ratings shown in the classification.

Mr. Donnelly: Does that answer your question, Mr. Chairman?

Chairman Aitchison: Pages 5 and 6 are copies, are they, of items in the classification?

The Witness: Yes, sir.

Chairman Aitchison: On page 4, you say in paragraph 5 at the top of the page, "Exhibit B, part 5 shows that chains" and so forth, "are subject to Class 35." Do you mean that 35 is published in the classification, or is it

published in a tariff which is apart from the classification and is an exception to the classification?

The Witness: That is an exception to the classification sir.

[fol. 2716] Chairman Aitchison: You understand we are not concerned with those things here, do you not?

By Mr. Donnelly:

Q. Why did you show those, Mr. Huntting? Are they for the purpose of comparison?

A. Those are for the purpose of comparison.

Chairman Aitchison: We could not change that in a case except by prescribing a reasonable classification, which might result in this becoming more than 35.

Mr. Donnelly: Let me ask you this, Mr. Huntting:

By Mr. Donnelly:

Q. What is your position in this case? Are you authorized to ask for any change in the present rates or classification ratings?

A. No, sir, we are not.

Q. Would you protest against any increases made in the present class rates that govern your commodities or the ratings that govern them?

A. Yes, sir.

Chairman Aitchison: Although he does not pay them, and he has exceptions to them, is that right?

Mr. Donnelly: He pays the classification ratings on different of these products.

Chairman Aitchison: I understood him to say he had a separate tariff which provided 35 per cent of first class.

Mr. Donnelly: I do not argue that, but of course the exhibit shows that beginning with part 2, there are excep-[fol. 2717] tions to the classification which are set forth here for the purpose of comparing them with the classification ratings.

By Mr. Donnelly:

Q. Have you any further statement, Mr. Huntting?

A. None, sir.

Mr. Donnelly: That is all on direct, Mr. Chairman.

Chairman Aitchison: Do you offer the exhibit?

Mr. Donnelly: The exhibit is offered.

Chairman Aitchison: Is there any objection to the receipt in evidence of this exhibit? (No response.) It is received.

(Exhibit 137, Witness Huntting, received in evidence.)

Chairman Aitchison: Are there any other questions of this witness?

Mr. Norman: I have one question.

Cross-examination.

By Mr. Norman:

Q. Did I understand you to say that these concerns named on page 1 are the only producers of these commodities that you show in here?

A. No, sir. I did not.

Q. What did you say in that respect?

A. I said that those were the members of the Institute.

Mr. Norman: Oh. I see.

[fol. 2718] By Mr. Norman:

Q. Are there any producers of these commodities located in the southern states?

A. Not that I am aware of.

Mr. Norman: That is all.

Chairman Aitchison: Is there anything further from Mr. Huntting? (No response.) You are excused.

(Witness excused.)

Chairman Aitchison: Call your next witness, Mr. Donnelly.

Mr. Donnelly: Mr. Perry.

Chairman Aitchison: Be sworn.

M. D. PERRY was sworn and testified as follows:

Direct examination.

By Mr. Donnelly:

Q. Will you give the reporter your full name, please, Mr. Perry.

A. M. D. Perry.

Q. Your business address.

A. 2719 Preble Avenue, North Side, Pittsburgh, Pennsylvania.

Q. By whom are you employed?

A. Pittsburgh Screw & Bolt Corporation.

Q. In what capacity?

A. Traffic Manager.

Q. How long have you been with the company?

A. Since 1918.

[fol. 2719] Q. All of that time in the traffic department?

A. Yes, sir.

Q. Have you had other traffic experience?

A. Yes. Prior to that time I was with the Carter Oil Company as assistant traffic manager. Prior to that time I was with the Baltimore & Ohio Railroad in the freight traffic department, Pittsburgh, for over three years.

Q. For whom are you authorized to appear here?

A. I am authorized to appear for the American Institute of Bolt, Nut and Rivet Manufacturers.

Q. Where are these companies located?

A. These companies are located principally in Central Freight Association territory. However, in my exhibit I show a complete list of the different companies represented by this institute.

Q. You have prepared an exhibit showing that and other things?

A. I have, sir.

Q. Was that prepared under your supervision?

A. It was.

Q. Is it true and correct to the best of your knowledge and belief?

A. It is.

Mr. Donnelly: Mr. Chairman, may we have this exhibit marked and given the next number?

[fol. 2720] Chairman Aitchison: It may be marked for identification as Exhibit No. 138.

(Exhibit 138, Witness Perry, marked for identification.)

By Mr. Donnelly:

Q. Would you state, if you know, what portion of the products which these companies produce and which are shown in here, in the exhibit, is produced by the companies that you speak for?

A. Approximately 65 per cent.

Q. Now, what is your connection with the Institute?

A. I am a member of the Traffic Committee of this Institute and prior to this year I was chairman for three years of the Traffic Committee.

Q. What is the nature of this exhibit you have prepared?

A. On page 1 of this exhibit it shows the various companies which are associated with this association. On pages 2, 3, 4, 5 and 6 there is shown a statement of facts.

Q. That is nothing more, as I understand it, than a historical statement of rates and the ratings that are shown here?

A. That is correct. Pages 7 to 17, inclusive, cover the various ratings, classification ratings on these commodities.

Q. What is your position in this case, Mr. Perry? Are you here to make any complaint about your present rates?

A. We are not, not at the present time.

Q. Are you in protest against any change that might be made in the class rates or the classification ratings that [fol. 2721] govern the transportation charges on your shipments?

A. No, we are not. At the present time we would not want to see any changes in our ratings.

Chairman Aitchison: What you really want is that there be no change made in these exceptions to the ratings, is that not correct?

The Witness: I did not get that, Mr. Chairman.

Chairman Aitchison: You would not want to be put back on the classification basis, would you?

The Witness: No, sir. Of course, there are some of these rates that take the classification, Mr. Chairman. Some of them take the class basis, some of our commodities.

Mr. Norman: What ones?

The Witness: Brass, copper and certain nickel chrome, bolts, nuts and rivets; aluminum rivets.

By Mr. Donnelly:

Q. In other words, a very material part of the shipments which the members of the Institute make, are governed by class rates, are they not?

A. That is right.

Mr. Donnelly: The witness is tendered for cross-examination, Mr. Chairman.

Chairman Aitchison: Is there any cross-examination?

Mr. Norman: One or two questions.

Chairman Aitchison: You may proceed, Mr. Norman.

Cross-examination.

[fol. 2722] By Mr. Norman:

Q. I would like to have you point out whereabouts in the exhibit is shown any ratings in the classification proper, Mr. Perry.

A. Well, as an example, nickel chrome bolts.

Q. Whereabouts in the exhibit?

A. Oh.

Mr. Donnelly: Show him what page.

The Witness: Wait until I get that for you.

Mr. Donnelly: Page 8.

The Witness: Well, for example, screws, noibn, nickel plated, in barrels or boxes. That would be one case. I do not know where the item nickel chrome is on here, but any time you have nickel chrome, it takes the second class rate.

By Mr. Donnelly:

Q. Is it not a fact that all, if not practically all, of the articles on page 8 are subject to classification ratings and are so shipped?

A. That is true.

By Mr. Norman:

Q. Is it not true that on all of the articles named and shown in this exhibit that are, for instance, made out of iron and steel and have not any nickel or anything like that in them, they move on exceptions to the classification?

A. That is right.

Q. They have got to be something right fancy, then, to move under the classification?

[fol. 2723] A. No. We ship a very substantial amount of other articles, Mr. Norman, today especially.

Mr. Norman: That is all.

Chairman Aitchison: Are there any other questions of this witness? (No response.) If not, you are excused.

(Witness excused.)

Chairman Aitchison: Do you offer this exhibit in evidence?

Mr. Donnelly: We offer Exhibit No. 138 in evidence, if the Chairman please.

Chairman Aitchison: Without objection, it is received.

(Exhibit 138, Witness Perry, received in evidence.)

Mr. Donnelly: Mr. Chairman, I reserved 15 minutes for another witness who is not here now. I would like to carry him over until Friday if we can find a place for him. He represents the United States Potters Association.

Chairman Aitchison: Very Well. Is Mr. Bohman ready?

Mr. Manghum: Yes.

Chairman Aitchison: Raise your right hand and be sworn.

R. F. Bohman, was sworn and testified as follows:

Direct examination.

By Mr. Manghum:

Q. Will you state your name, address and occupation for the record, please, Mr. Bohman.

[fol. 2724] A. My name is R. F. Bohman. I am located in Gardner, Massachusetts. I am general traffic manager of the Heywood Wakefield Company of Gardner, Massachusetts, manufacturers of furniture, baby carriages, mats and matting and public seating. I have had 23 years of traffic experience, 5 years as traffic manager of the Lloyd Manufacturing Company, Menominee, Michigan, 18 years as general traffic manager of the Heywood-Wakefield Company, and I also was chief traffic officer of the Rutland Railroad.

Mr. Manghum: May we have Mr. Bohman's exhibit marked for identification, Mr. Chairman?

Chairman Aitchison: It may be marked as Exhibit No. 139.

(Exhibit 139, Witness Bohman, marked for identification.)

By Mr. Manghum:

Q. Are you connected with the National Furniture Traffic Conference?

A. Yes, I am president of the Conference.

Q. What is the National Traffic Conference?

A. The National Traffic Conference is a voluntary association of furniture manufacturers organized to deal with traffic problems of the furniture industry. The Conference represents about 60 per cent of the furniture tonnage in the United States.

Q. What is the position of the National Furniture Traffic Conference in this proceeding?

[fol. 2725] A. The conference's position in this proceeding is that it wishes to preserve the principle of the graduated carload minimum weights as are in effect today as well as the L.C.L. ratings of 1st class on set-up furniture and 2nd class on K.D. furniture as is shown in my Exhibit No. 139, sheets 6 and 7.

Chairman Aitchison: Are those ratings that are carried in the classification, you are talking about?

The Witness: No. They are exception ratings.

Chairman Aitchison: You understand, we are trying to get this classification right, and not dealing with exceptions to it.

The Witness: There are furniture ratings——

Chairman Aitchison: Unless published as percentages in the classification itself.

The Witness: There are furniture ratings in the classification.

Chairman Aitchison: Do you use them?

The Witness: Both carload and less than carload.

Chairman Aitchison: Do you use them?

The Witness: We use part of them, not all of them. For example, on school desks, knocked down, in the classification, they are second class and in the exceptions they are second class.

Chairman Aitchison: It is not much of an exception if it [fol. 2726] is the same as the classification.

The Witness: I know it, but the way the exceptions read is something like this: Ratings on furniture classified second class or higher, second class.

Chairman Aitchison: I gather from sheet 8 of your exhibit that every rate you have here refers to an exception with the exception of items K, L and possibly N. Is that right?

The Witness: On what sheet?

Chairman Aitchison: 8.

The Witness: That is right. I might explain, Mr. Chairman, the reason for the exhibit: I attended the Indianapolis hearing and at that hearing there were four exhibits on furniture; I suggested to Mr. McCollester that he might reasonably make an objection which he did, pointing out that furniture was not involved, but, Mr. Chairman, you ruled that inasmuch as furniture was in the classification, the exhibits were proper.

Chairman Aitchison: They are proper to be shown as an admission against interest as to how much they can properly stand as a matter of value of service. Are you complaining about them, and wanting them changed?

The Witness: No, sir.

Chairman Aitchison: Then why not wait until you get hurt before you come here?

[fol. 2727] The Witness: We are here to protect them.

Chairman Aitchison: You think you can justify these exceptions as being proper classification ratings?. When we write a new classification, do you want us to write in these various percentages which are now in exceptions and say "Those are the proper classifications"?

The Witness: No. We would prefer to have the Commission disregard the furniture altogether and let us alone. May I proceed?

Mr. Donnelly: Yes. Take up where you left off, please.

The Witness: You will note on sheet 7 of my exhibit that the L.C.L. rating on furniture both set-up and K.D. is 2nd class in the Southeastern territory. The Conference is not asking that this be disturbed.

By referring to sheet 6 of my exhibit, under the percentage rating in column headed "official territory," you will note that the rating covering the 30,000-40,000 pound mini-

mum 50J is listed. 50J is 45 to 46 per cent of 1st class. Now refer to the column headed "Western Trunk Line," the rating of 75M is 68 per cent of 1st class, 70M is 64 per cent of 1st class, 60M is 50 per cent and 50J is 46 per cent.

By Mr. Donnelly:

Q. When were the ratings and minimum weights as shown on sheets 6 and 7 of your exhibit established on furniture?

A. The ratings shown on sheets 6 and 7 were established [fol. 2728] by the railroads in 1932 on the solicitation of the National Furniture Traffic Conference.

Chairman Aitchison: Do they cover the entire territory?

The Witness: Yes. That is, the entire territory east of the Rocky Mountains.

Chairman Aitchison: Proceed.

The Witness: At that time we pointed out to the railroads that the ratings then in effect had a tendency to localize the industry. Under the ratings and minimum weights established in 1932, a broader distribution of furniture resulted. By referring to sheet 9 of my exhibit, you will note that the carriers carload revenues on furniture increased from 6¾ millions of dollars in 1932 to over 20½ millions in 1941, an increase of 198 per cent. In 1932 the claims paid for loss and damage on furniture amounted to $279,731 or $4.05 per $100 of revenue, while in 1941 loss and damage claims amounted to $545,223 or $2.65 per $100 of revenue, a reduction of 34½ per cent.

In 1940 according to the Commission's Freight Commodity Statistics the carriers carload revenue on furniture was $14,143,948 and the claims amounted to $505,127, so that the claims in 1941 increased over 1940 by $40,270 while the revenue increased $6,409,563. This increase in revenue, 1941 over 1940, was almost parallel with the total [fol. 2729] carload furniture revenue for the year 1932 so that the claims paid for this additional revenue amounted to only 63 cents per $100 of revenue.

These claim figures were taken from the Association of American Railroad's Reports of the Committee on Prevention of Loss and Damage.

By Mr. Donnelly:

Q. You also represent the New England Furniture and Allied Products Manufacurers' Traffic Committee in this proceeding?

A. Yes, I am Chairman of that Committee. This Committee is a voluntary organization of furniture manufacturers of New England. It was formed to deal with the traffic problems of the New England furniture industry and its purpose in this proceeding is to protect, so far as possible, the furniture ratings and minimum weights that are in effect today.

Q. Can you give us a brief statement regarding the furniture production?

A. Yes. In the manufacture of wood furniture, in bulk and value, lumber and veneer constitute a majority of the raw materials used. The other items used are small and constitute a little volume that would move by rail or truck. Wood furniture is usually manufactured in the lumber-producing districts.

A study of the hardwood lumber production in 1940 as shown in a special survey of the Bureau of Census, shows [fol. 2730] that 69.16 per cent of the hardwood lumber produced in the United States is produced in 14 southern and southwestern states. The states are as follows: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma South Carolina, Tennessee, Texas, Virginia and West Virginia.

In this area, according to the 1939 census of furniture manufacture, the production of wood household furniture represented in dollar volume 29.7 per cent of the United States total. Hardwood lumber, of course, is used in the manufacture of many other things besides furniture. This same area produced 51.9 per cent of the bedroom furniture, 49.2 per cent of the dining room furniture, 20.4 per cent of the kitchen furniture and 14.5 per cent of the living room and library furniture. The majority production in the south is of bedroom and dining room furniture which is generally known as "case goods."

Sheet No. 1 of my exhibit shows the number of furniture establishments in the country by states and sheet No. 2 of my exhibit shows the population of the various states. Complete statistics are not available as to the distribution of furniture from the various producing centers nor are

accurate statistics available as to the dollar consumption of furniture by regions or districts. However, railroad carloading statistics are available showing the territory [fols. 2731-2732] in which the carload furniture traffic was terminated. These statistics, while not complete, appear to give some reliable index as to the consumption of furniture by districts.

The statistics for 1940 of railroad carload furniture traffic terminated according to the I. C. C. Freight Commodity Statistics of 1941 show that 50.4 per cent of the carloads and 48.3 per cent of the tonnage was terminated in the Eastern District which roughly is the territory north of the Ohio and Potomac Rivers and east of the Mississippi River. In this area will be found approximately one-half of the population of the United States.

In the Southern District, 16.3 per cent of the carloads and 15.9 per cent of the tonnage was terminated. 15 per cent, roughly, of the United States population is in the Southern District.

Chairman Aitchison: We will suspend until 9:30 tomorrow morning.

(At 5:05 o'clock P.M. November 18, 1942, adjourned to 9:30 o'clock A.M. November 19, 1942.)

[fol. 2733]

Hotel Deshler,
Columbus, Ohio,
November 19, 1942.

Met, pursuant to adjournment, at 9:30 o'clock a. m.

Before Division-2 of the Commission

Hon. Clyde B. Aitchison, Chairman of the Commission, presiding.

Hon. Walter M. W. Splawn, Commissioner.

Hon. J. Haden Alldredge, Commissioner, and a Cooperating Committee of the National Association of Railway & Utilities Commissioners represented by Mr. John J. Murphy, South Dakota Public Utilities Commission; Mr. George McConnaughy, Public Utilities Commission of Ohio; and Mr. W. H. Scott, South Carolina Public Service Commission.

Present: Paul O. Carter, Examiner; W. J. Koebel, Examiner; T. Leo Haden, Examiner.

Appearances:

As heretofore noted and the following additional:

W. H. Kimball, 3000 East Fifth Avenue, Columbus, Ohio, appearing for Curtiss Wright Corporation.

[fol. 2734] Proceedings

Chairman Aitchison: Shall we proceed.
Mr. Manghum: Mr. Bohman, please.

R. F. Bohman resumed:

Direct examination (continued).

By Mr. Manghum:

Q. You are the same Mr. Bohman who was testifying here yesterday afternoon.
A. Yes.

Chairman Aitchison: The statement of Mr. Bohman was circulated yesterday afternoon. He has read a portion of it. If there is no objection, the part of the statement remaining may be copied into the record as if he had read it orally. Is that agreeable?
Mr. Manghum: That is perfectly agreeable to us, sir.
Chairman Aitchison: That may be done, then.

(The balance of Mr. Bohman's testimony is as follows:)

There was terminated in the Western District 33.3 per cent of the carloads and 35.8 per cent of the tonnage.

These statistics show that, roughly, the termination of carload furniture traffic by railroad was in proportion to the population in each of the areas.

The 1939 census of furniture manufactures shows that the states comprising the Eastern District produced 54.9 per [fol. 2735] cent of the wooden household furniture produced in the United States. See sheets 3 to 5 inclusive of my exhibit. It will be noted that the dollar volume of furniture produced in the Eastern District in 1939 as a percentage of the total for the United States was in excess of the percentage of total railroad carload traffic terminated in that district. Obviously, the dollar volume cannot properly be compared with tonnage or units of furniture due to the variations in prices of the various styles and qualities of furni-

ture. However, the figures quoted give a rough outline of the probable production and distribution of furniture in the United States.

In considering the furniture production and distribution, it should be borne in mind that we are not dealing with a uniform product such as coal, clay, brick, cement, iron bars and other basic commodities. We are dealing with a product that varies in style, use, quality, price, etc. Upholstered furniture cannot be substituted for bedroom furniture nor can kitchen cabinets be substituted for chairs or sofas.

We must bear in mind that the so-called "furniture industry" is a family of closely related industries with wide variations in types of products, use of products and value of products, ranging from the simplest and cheapest types of unfinished articles to the more elaborate and expensive [fol. 2736] types. The vast bulk of the production is of cheap and medium priced goods designed to meet the mass market of average consumers.

Each industry produces types of furniture designed to meet a particular need and a particular market and, consequently, although furniture is produced in large quantities at, say, Grand Rapids, Michigan, or High Point, North Carolina, furniture from other centers is shipped into both of these towns, in most cases to fit particular needs which cannot be met locally.

The distribution has been established over a period of years and as a whole is logical.

The furniture manufacturing industry is largely one of small units located in relatively small towns. The average furniture plant in 1939 obtained by dividing the number of plants into the number of workers and value of products shows that only 59 persons were employed and the value of the products was $187,000.

In 1941, which incidentally was our heaviest furniture year, .26 per cent of the carload traffic handled by railroads consisted of furniture other than metal. In other words, the cars required to transport all of the furniture were slightly more than one-fourth of one per cent of the cars transported by rail. The number of cars used in the transportation of furniture represented .68 per cent of the cars [fol. 2737] required to transport the manufactures and miscellaneous carload traffic, or less than three-fourths of one per cent.

From the revenue standpoint, the freight revenue derived by the railroads from the carload furniture traffic was .78 of one per cent of the total revenue from carload traffic and 1.72 per cent of the revenue derived from manufactures and miscellaneous carload traffic. The average earnings from the furniture traffic were about three times the earnings from all traffic in relation to the number of cars handled. When compared with the manufactures and miscellaneous traffic, the revenue derived from the furniture traffic was double the average revenue per car for the entire group of manufacture and miscellanous traffic.

Q. Do the New England furniture manufacturers ship living room and dining room furniture long distances by rail?

A. No. Living room and library furniture is made up mainly of so-called overstuffed furniture (chairs, settees and davenports). These are the most highly competitive furniture articles manufactured and it is primarily a local business. It doesn't take much of an investment to get into this type of furniture manufacturing. Many of these manufacturing establishments are in basements of homes, or in the maker's barn or garage. Many employees of furniture manufacturers, when they are laid off because of poor business, go into business for themselves on a small scale. They [fol. 2738] buy frames, springs, cotton and other furniture material and assemble and upholster furniture which they distribute through their local retail furniture dealers and local department stores. Their low overhead makes it possible for them to sell at a low price. They are usually satisfied to make a day's pay and that is all. This type of competition exists in practically every city of 10,000 or more. These manufacturers, doing a local business, distribute by truck and not by rail, while the manufacturers of the other types of furniture and doing a national business, distribute by rail to a large extent.

Another type of manufacturer of the so-called overstuffed furniture is the small manufacturer who employs ten to one hundred men. This group of manufacturers limit their distribution to a few states and they, too, distribute by truck—many of them distribute by their own trucks and by contract truckmen. In other cases, the furniture dealer or retailer sends his own truck to these factories and picks up his orders himself.

This competition is hard to meet because of two reasons—1st, the saving in freight is large—and, 2nd, there is a big saving in packing costs. These trucks are equipped with what is known as furniture pads or blankets which are wrapped around the furniture and can be used over and over again, while the national distributor would have to go [fol. 2739] to considerable expense in packing and crating his furniture for shipment by rail. The saving in packing costs alone is often more than the freight charges, and if the railroads offered to haul the traffic free of charge, it still would be cheaper to ship by truck.

Q. Generally speaking, are the furniture manufacturers located near the hardwood lumber producing centers?

A. Yes. The furniture industry grew up in the hardwood lumber producing areas because of necessity, there being an average shrinkage or waste of approximately 45 per cent in the lumber used in furniture production. In other words, the furniture manufacturers pay freight charges on 45 per cent of the lumber that is not used.

Q. Where do the New England furniture manufacturers draw their lumber supply from?

A. The New England furniture manufacturers draw their lumber supply from the New England area, the Adirondacks and New Brunswick, Canada. Mainly they use birch and maple lumber.

Q. I take it, Mr. Bohman, that the furniture interests for whom you speak are not here asking the Commission to change the existing rating and rate structures on furniture.

A. No, they are not.

Mr. Manghum: That is all on direct, if the Commission please, and the witness is now presented for cross-examination.

[fol. 2740] Chairman Aitchison: You offer the exhibit, do you?

Mr. Manghum: Yes, your Honor; at this time I offer Mr. Bohman's Exhibit 139 in evidence.

Chairman Aitchison: Without objection, it is received.

(Exhibit No. 139, Witness Bohman, received in evidence.)

By Chairman Aitchison:

Q. Now, Mr. Bohman, before cross-examination, referring to the last question and answer, the question being "I

take it, Mr. Bohman, that the furniture interests for whom you speak are not here asking the Commission to change the existing rating and rate structures on furniture", to which your answer was "No, they are not": that means that you are not suggesting any change in the Consolidated Classification, does it not?

A. Well, let me put it this way, if you please, Mr. Chairman: the Consolidated Classification ratings do not move the traffic, because they are too high and we need these exceptions, and we do not want them distributed.

Q. But as far as the rating is concerned, you have not given us anything except exceptions, to see what the rating ought to be, have you?

A. That is right.

Q. Would you mind making a statement now, for the record, as to why you prefer exceptions to a change in the classification?

[fol. 2741] A. I would not mind that at all, no, Mr. Chairman. We prefer to deal direct with the traffic executives of our railroads. They know our problems. Now, if I have a traffic problem in connection with furniture, and I go to the vice president of our originating line, I do not want him to pass the buck off, and say, "Well, now, this is a classification matter. I haven't anything to do with it," and then I must go to a disinterested committee, that knows very little about my problem, the members of which have certain fixed formulae in their minds as to how ratings should be made,—and I say this, now, Mr. Chairman, with all due respect to the many able men who are on that committee; as a matter of fact, I have some personal friends on the committee. For those reasons I and my associates in the National Furniture Traffic Conference and the New England Furniture Group, prefer to deal direct with our railroad traffic executives.

Chairman Aitchison: Cross-examine.

Mr. Gwathmey: If the Chairman please, may I ask just one or two questions of the witness, not in the nature of cross-examination?

Chairman Aitchison: Yes.

By Mr. Gwathmey:

Q. Mr. Bohman, am I correct in understanding that the group for which you are appearing here, is nation-wide in scope?

A. You are speaking now, I take it, of the National [fol. 2742] Furniture Traffic Conference?

Q. Yes.

A. Yes, sir.

Q. Does that group include any furniture manufacturers or organizations of such manufacturers in the South?

A. Yes, sir,—the Southern Furniture Association.

Q. Will you please state for this record, Mr. Bohman, what the Southern Furniture Association is.

A. Well, it is a group of furniture manufacturers, organized to deal with the many problems that are involved in connection with the furniture business, among which is the traffic problem.

Q. Does that organization embrace, generally speaking, a majority of the furniture manufacturers in the South?

A. Well, as to that, I would not be able to say, but I assume that a large majority of the southern furniture manufacturers are members of that association. It is a very strong association.

Mr. Gwathmey: Thank you.

Chairman Aitchison: Cross-examine.

Cross-examination.

By Mr. Norman:

Q. Mr. Bohman, you are not speaking for the Southern Furniture Manufacturers in saying that they are satisfied with their present rate adjustment, are you?

A. No, I did not say that.

[fol. 2743] Chairman Aitchison: Their present—what?

Mr. Norman: Their present rate adjustment.

A. I did not say that, no, sir. In my opening statement, speaking for the National Furniture Traffic Conference, I said that we wish to preserve the principle of the graduated carload scale.

By Mr. Norman:

Q. And the Southern Furniture Manufacturers do go along with you on that, do they not?

A. Yes, sir.

Q. Now, did I correctly understand you to say that you do not want any change in the rates?

A. No.

Chairman Aitchison: No. The exact wording that the witness used was "the existing rating and rate structures."

Mr. Norman: Rate structures?

Chairman Aitchison: That is right—the plural.

By Mr. Norman:

Q. Well, now, in saying that, Mr. Bohman, you are not speaking for the Southern Furniture Manufacturers, are you?

A. No, sir, and I do not believe I said that. I was speaking, I believe, with reference to the National Furniture Traffic Conference—pardon me. Just where does that statement appear, again, please, Mr. Chairman?

Chairman Aitchison: In the second line of the very last question, in your statement.

[fol. 2744] The Witness: Page 7.

Chairman Aitchison: Yes.

A. Well that part covers the New England Furniture Manufacturers.

Mr. Norman: That is what I thought.

The Witness: That is right.

Mr. Norman: Thank you.

Chairman Aitchison: Is there further cross-examination?

By Mr. McCollester:

Q. Mr. Bohman, your plant, I take it, is in New England; is that correct.

A. One of them.

Q. One of them?

A. Yes, sir.

Q. In marketing the output of your New England plant in Official Territory, do you encounter competition from furniture manufacturers in the South?

A. Oh, yes, indeed we do. As a matter of fact, that is the toughest competition that we have.

Q. They set prices in the North for furniture, that you have to meet, do they?

A. Right.

Q. Pardon me?
A. That is right.

Mr. McCollester: That is all.

Chairman Aitchison: Is there further cross-examination?

[fol. 2745] By Com. Alldredge:

Q. Mr. Bohman, if every shipper felt the way you do with respect to dealing directly with the officers of the originating carriers, would there be any such thing as a classification left?

The Witness: I am very sorry, Mr. Commissioner, but I did not get the first part of the question.

(Question read.)

A. Well, I do not know. That is a rather difficult question to answer, Mr. Commissioner. Most of the traffic in the country today does not move under the classification basis, anyway. It seems to me that the classification, for the past 10 years, has been what Mr. John Turney has termed "a modern Doomsday Book."

Chairman Aitchison: Well, Mr. Turney, eminent historian that he is, used that term, of course, in a signification which had nothing to do with doom at all. (Laughter.) It was merely as a title, so to speak.

The Witness: I appreciate that.

Mr. Norman: That is all it is, too.

Chairman Aitchison: Is there anything further?

Mr. McCollester: I have nothing further.

Chairman Aitchison: If not, you are excused.

The witness: Thank you.

(Witness excused.)

Chairman Aitchison: Mr. Dyer.

[fol. 2746] W. M. Dyer was sworn and testified as follows:

The Witness: My name is W. M. Dyer. I live at Wichita, Kansas. My address there is 1009 Beacon Building. I am manager of the Wichita Chamber of Commerce. I have been with that organization since November 1, 1922, for 5 years of that period in my present capacity. I am employed pri-

marily to protect the shippers of Wichita in traffic and other matters before the Interstate Commerce Commission, the state commission, and the various railroad agencies. I am appearing on behalf of the members of the organization, and the business interests of Wichita. Prior to the time I became connected with the Wichita Chamber of Commerce, I had approximately 9 years' experience with Kansas railroads. During the period of 20 years, during which I have been associated with the Wichita Chamber of Commerce, I have been present at from twelve to fifteen regular meetings of the Traffic & Transportation Committee of that organization annually, at which there have been discussed problems of competition and distribution concerning not only the individual members of the Traffic Committee, but also the problems of shipper members that were brought to the attention of the Traffic Committee, to be handled by the Traffic Department, for consideration and action thereon. The Traffic & Transportation Committee of the Wichita Chamber of Commerce consists of approximately thirty-five [fol. 2747] shipper members, representatives of all classes of shippers, jobbers, wholesalers, retailers, manufacturers, constituting a representative cross-section of Wichita business. In addition to this contact that I have had with the problems of the wholesalers, distributors, jobbers, and manufacturers, and also those of all kinds of business men, located in and doing business at Wichita, Kansas, I have, based upon a conservative estimate, had an average of from six to ten conferences daily with representatives of those various business interests, at which problems of competition and distribution have been discussed. The Wichita Chamber of Commerce has in its membership approximately 900 individual, or member firms, each carrying one or more memberships in the organization. I have been directed by the Traffic Committee of the Wichita Chamber of Commerce to appear in this proceeding and protect the interests of the manufacturers, jobbers, distributors, wholesalers and retailers located in Wichita, Kansas.

By Chairman Aitchison:

Q. You say that you are appearing here to defend them, in substance. In what way do you consider them to be menaced?

A. That question is a rather difficult one to answer, Mr. Chairman. We are seeking in this proceeding, however, I might say right here, a uniformity of classification rates, and a uniformity of classification ratings, because by that [fol. 2748] we think that the position of Wichita will be improved; but it is of course very difficult to say just at this time what might come out of this proceeding.

Q. Well, is your position divergent from that of any of the other Kansas interests that have been heard here?

A. No, it is not.

Chairman Aitchison: Continue.

A. The 1940 census shows that Wichita had at that time a population of 114,966, or a population of 127,308, including the metropolitan area. The metropolitan area of Wichita includes Delano, Keechee, Riverside and Wichita Townships, and Wichita City and Eastboro City. There has been a marked increase in population, especially of the Wichita metropolitan area and Wichita proper, since the release of the 1940 U. S. Census figures. Based upon figures prepared by the Sugar Rationing Board, the present population of the metropolitan area, including Wichita proper, is approximately 204,000, and the population of Wichita proper is 190,000. The increase in the population of Wichita proper, and the metropolitan area of Wichita, has been due to the rapid growth of the airplane and other branches of the defense industry in Wichita. Wichita is located on the Atchison, Topeka & Santa Fe, Chicago, Rock Island & Pacific, Missouri Pacific, and Midland Valley lines of railroad, in southeastern Kansas, 199.7 shortline rail miles southwest of [fol. 2749] Kansas City; 635.8 rail miles southwest of Chicago; 456.8 rail miles west of St. Louis; 154.2 rail miles southwest of Topeka; 171 rail miles north of Oklahoma City; and 51 rail miles north of the Kansas-Oklahoma border, immediately south of Arkansas City, on the ratemaking route between Wichita, Kansas, and Oklahoma City, Oklahoma. Wichita is located on the division-of-Kansas line set by the Commission in 218 ICC 11, drawn through Kansas, beginning at the Kansas-Missouri border, on the line of the Missouri Pacific Railroad, through Ft. Scott, Yates Center, Eureka, and El Dorado, to Wichita; thence the line of the Atchison, Topeka & Santa Fe to Pratt; thence the line of the Chicago, Rock Island & Pacific through Liberal to the Kansas-Oklahoma state line. Wichita has the usual large

business concerns, jobbing, wholesale and manufacturing, as you will find in any city of the size of Wichita. Some of those concerns do business upon a national scale, of national scope.

The situation at Wichita is unusual, in that approximately 50 per cent of Wichita's distribution business is north and south of the line I have just described. I found this as the result of an investigation that I made, in connection with the business concerns at Wichita, in which it was developed that about 50 per cent of the distribution of Wichita's business is north of the line that I have just described, and about 50 per cent of it is south of that line. Now, in [fol. 2750] order that the record may be clear, when I refer to "that line" I mean the division-of-Kansas line prescribed by the Commission in 218 ICC 11, just referred to. My investigation has also developed that there is exceedingly keen and continuous competition encountered by all of the business interests located at Wichita, with business concerns in similar lines located at points on the Missouri River, chiefly Kansas City and St. Joseph, Missouri, that distribute their products throughout Wichita's trade territory, notwithstanding the fact that Kansas City, the nearest Missouri River jobbing point, is 199.7 rail miles northeast of Wichita.

I have prepared two exhibits for presentation in this proceeding, which I now desire to have marked for identification with the next numbers in record order.

Chairman Aitchison: 140 and 141. Which is which?

The Witness: The first exhibit, which will be No. 140, is the short exhibit; and the other exhibit, No. 141, may be identified by the letter B in the lower right-hand corner of the cover page.

(Exhibits Nos. 140 and 141, Witness Dyer, marked for identification.)

The Witness: Exhibits 140 and 141 were prepared by me and under my direction, and they are true and correct, to the best of my knowledge and belief.

[fol. 2751] By Chairman Aitchison:

Q. What are they intended to show?

A. Just briefly, these two exhibits are intended to show, Mr. Chairman, the relationship of the class rate levels

applying within Western Trunk Line Territory and the class rate levels applying within and between the territory east thereof. The first exhibit, No. 140, was prepared prior to the hearing in this proceeding at Indianapolis, Indiana, and I have not made any change in that exhibit; but in view of what the chairman stated at the Indianapolis hearing, I did rebuild my exhibit No. 141, so that it now plainly sets out the purpose of the exhibit. As to Exhibit 140, as I have stated, the purpose of the exhibit is to show that the spread in rate levels, Western Line Territory versus Official Territory, and within Western Trunk Line Territory, is unduly discriminatory of Wichita, Kansas, and the Wichita firms doing business in that area. The exhibit, consisting of 16 pages, I believe to be very largely self-explanatory. It shows a comparison of the Western Trunk Line 17000 Zone Scales with the Western Trunk Line basic scale and the Docket 15879 scale. On page 9 of the exhibit appears the application of the laminated formula via the ratemaking route between Chicago and Wichita, for the distance from Chicago to Wichita, the respective zone differentials, being a part of the rate, and the volume of such differentials. For example, on page 13, the character "4" preceding the distance of 635.8, appearing in Column 1, represents the distance between [fol. 2752] Chicago and Wichita, and indicates that the component parts of the Chicago-Wichita rate are as shown on their Column 2, Basic Scale, $1.46, showing under Column 4 the Zone-1 differential of 15 cents; and under Column 6 the Zone-2 differential of 13 cents; and under Column 8, the Zone-3 differential of 5 cents; making the total rate under the laminated Western Trunk Line and Southwestern formula, $1.79, as shown under Column 9. The carriers publish a rate of $1.82. As against the rate of $1.97, as shown under Column 10, the carriers publish a rate of $2, and the Ex Parte 148 increases produce a rate of $2.09. That is not shown in the exhibit.

Now, my Exhibit 141 consists of six sections, designated as A to F, inclusive, and contains a total of 69 pages. The purpose of this exhibit is to show the unlawfulness resulting from the existing class rates and ratings applicable to and from Wichita, Kansas, as compared with the class rates and ratings applicable at points in the territory east thereof. Although this exhibit likewise is largely, I believe, self-explanatory, there are just a few high points concern-

ing which I desire to testify briefly. The contents of the exhibit are set forth in the index appearing on pages 1 and 2. Section A is also explained on the title page of this section, and consists of 18 pages, three of the pages being A-pages to pages 7, 8 and 9. Pages 2, 4 and 6 are [fol. 2753] maps of Kansas divided by lines-A, B, C and D. As indicated, they divide Kansas, as shown on page 2, into two sections, one lying east and one lying west of line C. For example, Territory C lies west of the irregular line designated as line C, and C-1 territory lies east thereof. Lines B, C and D, appearing on page 4 of this section are arbitrary lines, but line A is the boundary line between Zones 2 and 3 as fixed by the Commission in the Docket 17000 Class Rate Case, 164 ICC 1.

Q. I got the impression from your statement, Mr. Dyer, that you are on the borderline that was drawn in 218 ICC.

A. No, we are not, Mr. Chairman. We would like to be on a borderline, preferably the Kansas City borderline.

Q. I misunderstood you, then.

A. I am sorry. The map of Kansas shown on pages 4 and 6 of this section, shows a further division of Kansas C-1 territory. These are the territorial divisions of Kansas used in the population and business activity analyses shown on pages 7 to 9-A, inclusive, of this section. Kansas D-2 territory, shown on the map, page 4, is largely in Western Trunk Line Zone-2 territory, while Kansas B-3 territory, shown on the map, page 6, is entirely in Western Trunk Line Zone-3 territory. Page 7 of the exhibit is an analysis of manufacturers for the entire state, and by sections of the state, as shown on pages 2, 4 and 6 of this section. It is interesting to note that C-2 territory, which [fol. 2754] is the section of Kansas west of line C, reflects a land area ratio of 54.5 to the state as a whole, as shown under Column 3; but under Column 15 it reflects, that territory does, a ratio of only 2.9 per cent of value of manufactures, to the state as a whole. As shown under Column 3, by adding the nine counties previously mentioned, that lie wholly within Zone-3 territory, but east of Line C, the result is that that section of the state bears a ratio of 66 per cent of the land area of the state, or an increase of 11.5 per cent. But, as shown under Column 15, the value of manufactures in the western section of the state, by the addition of the nine counties, is increased to a ratio of 35.5, or an increase of 32.6 per cent, which

means that the nine counties that I have just mentioned increase the ratio in that entire area to the extent as shown.

Q. Well, now, I do not just get the point of all this. Just what does all this have to do with classification ratings, or the classification situation?

A. Why, Mr. Chairman, immediately, as soon as you pass across the Zone-2 line, shown on page 11—or rather—pardon me—I mean to say, on page 13 of my Exhibit No. 140—you have a differential increase in the first class rate of 5 cents, not including the Ex Parte 148 increases. We are attempting here to show by this section of Exhibit 141, that the business activities in the area surrounding [fol. 2755] Wichita justify the extension of the Zone-2 scale to include Wichita, or at least the elimination of the 5-cent class rate differential, because of the showing of business activities in the area that I have described as D-2 territory, and that territory in Zone-2 territory; but I will take that up a little later, in my explanation of the exhibit.

Mr. Hughes: If the Commission please, does that not bring up the question at once, as to how far the Commission is going to inquire into local situations, in connection with this proceeding? Apparently the witness here is dealing with a situation that he regards as peculiar to Wichita.

Chairman Aitchison: Well, I take it that the inquiry that we have before us here is as to whether or not the existing structure is proper generally, and to the extent that the witness shows that it is not proper, that will be given consideration: That seems to be the situation.

By Chairman Aitchison:

Q. You are not contending, are you, that it follows that, because you have so many square miles, and so few manufactures in those square miles, that a rate adjustment must be made that is going to put a lot more manufacturers out there?

A. No, Mr. Chairman. The purpose of the exhibit is merely to show the business activities in that particular area, and it is the business activities, of course, that make the revenue for the carriers, because if there is no move-[fol. 2756] ment there is no revenue. In that particular area, I hope to be able to show here, taking the D-2 terri

tory as compared with the B-3 territory, since the Commission has placed the B-2 territory in Zone-2, certainly Wichita is entitled at least to the elimination of the 5-cent arbitrary.

Q. Where did you get these destinations of B-2, and so forth?

A. Oh, those designations, Mr. Chairman, are just merely arbitrary designations, adopted for explanatory purposes.

Q. They are just your own?

A. Yes.

Q. All right.

A. Now, on page 7-A of the exhibit, there is an analysis of business activity east of line C, or in C-1 territory. B-3 territory, which comprises the nine counties in the southwestern section of the C-1 territory, lying wholly within Zone-3 territory, reflects 25.3 per cent of the land area of the state, that is, a ratio of 25.3 per cent; as shown under Column 3, while, as shown under Column 15, the business activity in that area reflects 33.5 per cent of value of manufactures in C-1 territory. Now, comparing that with the D-2 territory, as shown under Column 3, the D-2 territory reflects 19 per cent of the land area of the state; while, as shown under Column 15, it reflects only 1.1 per cent of value of manufactures produced in C-1 territory. Pages 8 and 8-A set forth the same type of [fol. 2757] study for the wholesale trade.

Q. Well, you scarcely would expect manufacturers to be located on those high plains to an extent that would materially change the percentage, based on the state as a whole, would you?

A. I did not get that, Mr. Chairman.

(Question read.)

A. Well, that was based, Mr. Chairman, not upon the state as a whole, but upon the C-1 territory. Now, we do show that for the B-3 territory, which reflects only a ratio of 25.3 of the land area of the state, we have 33.5 per cent of value of manufactures produced in that particular territory, C-1 territory; while as stated, D-2 territory, which reflects 19 per cent of the land area of C-1 territory, produces a value of manufactures that reflects only 1.1 per cent of the value of manufactures for C-1 territory.

Q. Well, you have not answered my question, which was intended to develop whether or not you would expect manu-

facturers to be located out on those high plains, to an extent that would materially change the percentage.

A. I am very sorry, Mr. Chairman, but I do not believe I understand your question.

Q. Well, they do not have fuel, they do not have raw material, and there is no population around there.

A. Well, the population comes when there is business, [fol. 2758] Mr. Chairman, as I have shown in my exhibit here.

Q. Would you expect to advise any client to put a good-sized manufacturing plant, except possibly for war purposes, or something of that sort, out on those high plains in Western Kansas?

A. I would advise such a party, who had a project of that sort in mind, to put his plant at Wichita.

Chairman Aitchison: Which is not on the high plains.

By Com. Splawn:

Q Let me see now, Mr. Dyer, if I understand your exhibits correctly. I understand your position, stated generally, to be, that you want universal uniformity. Is that correct?

A. Yes, that is correct, Mr. Commissioner, and that is what we are seeking in this case, along with the other interests in the Southeast, and in Southwestern and Western Trunk Line territories.

Q. But you have built your exhibits, assuming this zoning to which you have referred, to prove that your city, or your area, should be moved into a lower zone, have you not?

A. What we had particularly in mind in building the exhibits, Mr. Commissioner, was as a safeguard.

Q. In other words, you come forward and announce the general thesis, as a general proposition, and then you undertake to prove the exception; is that it?

A. I do not know whether I just follow your question correctly or not, Mr. Commissioner. We are attempting to [fol. 2759] prove the general thesis, if you please, yes, sir, and then, as I stated before, we also have in here a showing, in addition, as a safeguard. Now, pages 9 and 9-A of the exhibit cover the same type of study for the retail trade. Pages 10 to 15, both inclusive, contain a similar analysis,

for the periods indicated, for the entire state, as compared——

Chairman Aitchison: Well, now, in the interests of time, I will have to ask you not to explain the exhibit page by page.

The Witness: Very well.

Chairman Aitchison: If necessary, you may file a supplemental statement.

The Witness: All right, your Honor.

Chairman Aitchison: But time is going on here very rapidly, and we still have a long way to go.

The Witness: Very well, Mr. Chairman. I will pass that up, then. However, I did want to explain the sections, just very briefly, so that the exhibit itself will be understood, or understandable, if that is permissible.

Chairman Aitchison: Do you not have that sufficiently already, in your index?

The Witness: I believe I have, yes, sir.

Chairman Aitchison: Now, I would just like to get the conclusion that you draw from this,—unless you have already given it to Mr. Commissioner Splawn.

[fol. 2760] The Witness: If you will just permit me to go ahead a little further, Mr. Chairman, I will be through very quickly.

Chairman Aitchison: All right.

The Witness: There is one more matter that I want to point out. On page 5 of Section B——

Chairman Aitchison: Now, just how far through the book is that? I notice that these pages are not numbered consecutively.

The Witness: Well, it is the second section of the exhibit, Mr. Chairman, and I am now referring to page 5 of that section. It is about, I should judge, 25 per cent approximately through the exhibit, about one-quarter of the way through,—page 5, Section 2.

Chairman Aitchison: Section 2?

The Witness: Yes,—or rather, I should say, page 5, Section B, Subsection 2.

Chairman Aitchison: All right.

The Witness: Referring to New York, as shown in the tenth line down, in Column 10, it shows that the basic scale rate is 2 cents less than the published rate at Kansas City; 6 cents more, as shown in Column 15, at Topeka;

and 23 cents more, as shown in Column 5, at Wichita. Comparison is also shown with Docket 15879. Section C, consisting of 10 pages, is an analysis of freight traffic [fol. 2761] density figures of the major Kansas lines, for the periods indicated, under Subsection C-2, supplemented by a map of Kansas, shown on page 10 of this section, rerouting the western boundary of Western Trunk Line Zone-2, to include Wichita. Otherwise, I believe that this section is self-explanatory. Mr. Real, of Topeka, in his Exhibit No. 117 here, proposed a rerouting of the Zone-1 line shown on page 6. In the event that the Commission should reroute the Zone-1 boundary line as per the proposal of Witness Real, as shown on that page of the exhibit, we suggest that the line beyond Lincoln be via the Chicago Rock Island & Pacific Railway to Fairbury, because the line of the Rock Island between Kansas City and Lincoln, on which Topeka is located intermediate, passes through Fairbury, Nebraska. Then we propose that the line be routed via the Union Pacific, via Marysville, to Mahhattan; thence the Rock Island via Herington to Peabody; thence the Santa Fe via Newton to Wichita; and thence via the St. Louis-San Francisco, via Springfield, Missouri. I am not opposed to extending the line beyond Wichita, if it can be justified.

By Chairman Aitchison:

Q. Were you in the Western Trunk Line case?

A. Only indirectly.

Q. Was Wichita represented there?

A. Yes, sir.

Q. Did it present its claim for the line to be put where you are now contending it should be?

[fol. 2762] A. I do not know as it was exactly the same, Mr. Chairman. However, I do know that in the further hearing there was an attempt to make a rerouting of the Zone-2 line to include Wichita.

Q. Well, is this a retrial, then, of that same issue?

A. Why, no, sir, I would not say so, Mr. Chairman. I was of the opinion that the issues in this proceeding are rather broad.

Q. Yes, I think so, too, but you are getting very precise here, when you tell us the precise line of railroad that goes between two stations.

A. I am just making the suggestion, Mr. Chairman, and leaving it up to you, to do as you think best in the matter.

Q. I was wondering whether or not an attempt had been made to get a reopening of the Western Trunk Line case, if the line that was drawn there was an improper one.

A. Not that specific case, no, Mr. Chairman, except to the extent that I have stated, that I was rather of the opinion that this proceeding was more or less a reopening.

Q. Well, that case was tried and decided years ago. You have had all this time, and you have been doing all of this suffering, as you have described here. Now, if there was a grievance, why did you not come before us and ask to have that case reopened, and give us a chance at it there, if that was wrong?

[fol. 2763] A. Well, we are giving you that chance now, Mr. Chairman. We have of course been very busy. Now, I think that Sub-section 2 of this Section D needs clarification. Section D consists of the system maps of the Atchison, Topeka & Santa Fe, Chicago, Rock Island & Pacific, Missouri Pacific, St. Louis-San Francisco, and Union Pacific Lines, in that order, picturing the operating segments in Kansas, as described on pages 6 to 9, inclusive, of Section C. I just want to state that the red lines shown on these maps are the Zones-2 and -3 lines as prescribed by the Commission in Docket 17000, 164 I. C. C. 1.

Q. Well, now, getting back to my former question with respect to that line, were you present when Judge Hoch, a member of the Kansas Commission, came to us, for the State of Kansas, and asked to have that line redrawn?

A. I am not familiar with the exact situation in that connection, Mr. Chairman.

Q. I was just wondering whether or not we had the chance then.

A. I could not say.

Q. You do not know whether that was included in that matter or not, then?

A. No, I do not, Mr. Chairman. My predecessor might have been in on those conferences, but I do not recall them myself.

Q. I am inclined to think that that very issue was pre-

[fol. 2764] sented, and presented very strongly and ably by Judge Hoch at that time.

A. Well, we would like to bring it to your attention again in this proceeding, then, also, Mr. Chairman. Referring

now to the map of the Atchison, Topeka & Santa Fe Railway shown in Section D, the brown line shown on that map defines the eastern division of the Santa Fe, and the blue line defines the middle Kansas division of the Santa Fe. It will be noted that the middle division is largely branch line. The other maps shown in this section reflect the same purpose—or are for the same purpose, rather, as indicated. I believe that all the balance of the exhibit is self-explanatory, and, theerfore, I will not take up any more time discussing it.

Chairman Aitchison: You wish to offer your exhibits in evidence, do you?

The Witness: Yes; thank you, Mr. Chairman. At this time I would like to offer in evidence my Exhibits 140 and 141.

Chairman Aitchison: Without objection, they are received.

(Exhibits Nos. 140 and 141, Witness Dyer, received in evidence.)

Chairman Aitchison: Does that conclude your statement on direct, then?

The Witness: No, Mr. Chairman, it does not, quite but [fol. 2765] I will be through very shortly. I have just a very short further statement, or comment, that I would like to make. Mr. Real, in his Exhibit No. 117, on page 7, showed two lines, a green line and a red line, which he described in his testimony. In the preparation of my exhibits—and in connection with that, I would like to refer you to page 1 of Section E—a thorough check of the tariffs reveals the fact that those lines are not reflected in the tariffs. However, in the last four years there have been attempts by the carriers to divide the rates in Kansas along these lines, and those have resulted in nine I & S cases, as follows: I & S 4451, I & S 4456, I & S 4545, I & S 4556, I & S 4571, I & S 4597, I & S 4818, I & S 4819, and I & S 5122. To date, those lines, so far as the tariffs are concerned, are only paper lines, and do not reflect tariff differences at those lines. I wish to comment very briefly now with respect to one adjustment that tends to show the unlawfulness of the class rate adjustment in our territory, and that is the glassware adjustment, to show not only the unlawfulness of the class rate structure to and from

Wichita, within the Southwest, but also the classification ratings, as well. On page 1, Section E of my exhibit,—and you might refer to that page, if you will, please, in connection with the discussion of these rates that I am now offering—on glassware within the Southwest—or rather, I mean to say, glass bottles within the Southwest, including [fol. 2766] that portion of Kansas south of the K line, the small section of Kansas including about four counties, class 275 applies, in that area. In the territory to the north, Class C-35 applies; and rates reflecting 24 per cent of the first class rate from Okmulgee to Kansas City, apply. From Okmulgee to St. Louis, the rate reflects 20.5 per cent of the first class rate.

Mr. Bee: If the Commission please, what commodity is the witness talking about now, moving from Okmulgee?

Chairman Aitchison: He said, glassware, or glass bottles.

Mr. Bee: He said, glassware, and then he referred to glass bottles, and then he said something about Okmulgee, and there never was a bottle shipped from Okmulgee in its history. I would just like to know what the witness is talking about.

The Witness: The glass bottle rate from Alton, Illinois, was recently reduced to territory on and east of the line shown as Line-B, to 29 per cent. To most of the area west thereof, it is 35 per cent of the first class rate. We are not complaining there, as far as commodity rates are concerned, because our commodity rate from Alton, Illinois, reflects 29 per cent of the first class rate. The rest of the [fol. 2767] area, Class 35 applies. The reason we are not objecting is because of the fact—seriously objecting—is because of the fact that glass bottles are all purchased on the basis of the Alton price plus freight rate, so I am advised by our Wichita jobbers and users of glass bottles, but we are faced with this fact, that the price set-up can be changed most any day, and then we will have a real complaint before this Commission. The reason we are bringing this to the attention of the Commission at this time is to show the chaotic condition, and that is the purpose of page 1 of the exhibit.

By Chairman Aitchison:

Q. Page 1?

A. Page 1 of Section—I beg your pardon. Page 1 of Section E of Exhibit No. 141.

The Wichita Chamber of Commerce joins with other interests in WTL, Southwestern and Southern Territories in asking that the same level of class rates and identical classification ratings be prescribed for application throughout the territory involved in this proceeding, but failing in that, we ask that the Commission extend to Wichita the same level of class rates as now prescribed or as may be prescribed to Northeastern Kansas. However, we are fearful lest the Commission may not, in view of Finding 27 of the Consolidated Southwestern Cases, prescribe such lower level of class rates to and from Wichita and points [fol. 2768] east thereof, notwithstanding the record may so justify, without a modification of the Commission's prior order in I. C. C. Docket 13535.

At that point, I would like to direct the Commission's attention to page 407, 123 I. C. C. 203, where the Commission said that its decision in that case was without prejudice to its finding in Docket 17000. The Commission on——

Chairman Aitchison: Mr. Dyer, you know your 20 minutes has got to an hour already.

The Witness: I will be through in just a second. The Commission, on July 6, issued a show cause order in I. C. C. Docket 13535, requiring that those opposed show cause why that order should not be vacated to the extent—I am reading from the order—that the parties to the above-entitled proceeding be, and they are hereby required to show cause on or before August 17, 1942, why an order should not be entered vacating the outstanding orders with respect to prejudice and preference in so far as said orders apply to commodities on which no specific column rates or percentage of first class rates as have been prescribed for general application to, from and between points in the Southwest——

Mr. Barron: I submit that has no place in this investigation, Mr. Chairman. That is a matter that is before the Commission by its own order, to find out whether or not they should vacate an order in 13535, and I don't feel as if we ought to get into those ramifications in this proceeding.

Chairman Aitchison: We don't know what he is going [fol. 2769] to say about it. Proceed.

Mr. Barron: He has already said enough to convince me what he is going to say.

Chairman Aitchison: You are bright. I am not as well informed.

The Witness: Mr. Bee filed an answer to this show cause order—Mr. Bee of the Oklahoma Corporation Commission—under date of August 10, 1942. The Wichita Chamber of Commerce filed a reply to Mr. Bee's answer under date of July 6, 1942.

Mr. Bee: Mr. Commissioner, I think that inasmuch as the witness clearly shows that the matter is at issue before the Commission, and that we have asked for a specific hearing at a time and place when I would be notified, I object to this witness going into that, if he is going into it, because we did not bring our papers and are not prepared to put evidence on before the Commission now on that matter.

The Witness: Mr. Chairman, I am not going into it any further than I have. I do want to change the date of my reply, that I stated for the date of my reply. My reply was filed on September 15, 1942.

Chairman Aitchison: Well, it is perfectly proper for him to call attention to the fact that we have a certain matter pending before us that is undecided.

Mr. Bee: Yes. I say if he goes any further.

[fol. 2770] The Witness: That is all I have, Mr. Chairman.

Chairman Aitchison: Cross-examine.

Cross-examination.

By Mr. Bee:

Q. Mr. Dyer, you are suggesting a new group to be established in Kansas?

A. No, sir.

Q. Did I understand that you are recommending to the Commission to put some B-3 territory into the now B-2 territory, something of that kind?

A. No, sir.

Q. What does your map mean, then, when you draw this territory of B-2? What do you ask the Commission to do?

A. It is for analysis purposes only, and as to what I

asked the Commission to do is plainly stated in my direct testimony.

Q. Isn't it to extend the line south and west to include the B-2 territory?

A. To include Wichita.

Q. Yes, sir.

A. And beyond, provided it can be justified.

Q. Yes.

A. I am not opposed to its being extended to include Oklahoma.

Q. Now, take page 2, where you carve out your B-2 territory. That is in your Exhibit No. 141.

[fol. 2771] A. Could I make a further comment in connection with my answer to your question?

Q. Yes, sir.

A. In fact, that is entirely in line, Mr. Bee, with your own statement of your own witnesses. We are asking for a uniform rate adjustment throughout Western Trunk Line, Southwestern, Southern, and Official Classification Territories.

Q. Do you know of any alternative proposal made by any Southwestern witness to go into some particular territory in case that couldn't be done?

A. I don't know of any specific proposal.

Q. Then why do you make the statement that that is in line with their testimony when none of our witnesses made any such alternative proposal, Mr. Dyer?

A. Mr. Bee, to the extent I just stated.

Q. Well, let's turn to page 2 of your Exhibit No. 141. You have carved out a B-2 territory, and at other places in the exhibit, you show some manufacturing and statistical records to build up that territory, do you not?

A. I show the—yes, I show the statistical data for the territory as outlined there. It includes nine counties in Kansas east of what I have termed as the Line C and lying wholly within Zone-3 territory and immediately beyond or west of the Zone-2-3 line.

Q. Will you just answer my questions. The exhibit [fol. 2772] shows the territory?

A. Yes.

Q. All right. Now, just west of that line that you created as the west border of your B-2 territory, you find the counties of Ellsworth and Rice in the state of Kansas?

A. Yes.

Q. I am going to ask you, from your knowledge of the state, if you had compared those two counties to Chautauqua and Montgomery, which are put into your B-2 territory, which one of the groups would have shown up better under the statistical showing you have made?

A. I do not know.

Q. I ask you the same thing about Kingman and Harper, west of your line, as contrasted with either Chautauqua, Cowley, Butler, Montgomery Counties, in the B-2 territory that you have created.

A. I do not know, Mr. Bee, but I do have that basic data here that you can use if you so desire.

Mr. Bee: Thank you.

Chairman Aitchison: Any other cross-examination?

By Mr. Barron:

Q. Mr. Dyer, do I understand that on behalf of something like 900 manufacturers, is that correct, at Wichita——

A. You use the figure 900?

Q. No, the number of manufacturers that you are repre-[fol. 2773] senting at Wichita.

A. The number of members that might include——

Q. All right, 900 members. Are you suggesting to the Commission that they put in an equalization of rates, mile for mile, from Wichita to Western Trunk Line Territory, and the same measure of rates from Oklahoma origins to the Western Trunk Line territory?

A. I am not opposing it.

Q. Are you advocating it on behalf of these 900 members at Wichita?

Chairman Aitchison: Better let him answer your question.

Mr. Barron: Pardon me.

The Witness: I believe, Mr. Barron, that I made myself clear as to my position and what I was advocating in this case. We are joining with the other interests in Southern, Western Trunk Line and Southwestern Territories, seeking a uniformity of class rates and classification ratings throughout the territory involved in this proceeding. But in the event that the Commission should not do what we want, in that case, then we are asking that the Commission in this proceeding do what I have stated.

By Mr. Barron:

Q. Now, in that uniformity of classification, are you also suggesting that the exceptions to the classification be eliminated and be included in the classification?

[fol. 2774] A. I am not trying to evade your question, Mr. Barron. I would have liked to have put some testimony into this case with reference to exception ratings, but I didn't deem that they were involved. Now, of course, we are not asking, of course, for the elimination of exception ratings in this proceeding, but we are asking for the elimination of such things as I pointed out as represented by that glass rate adjustment that I specifically referred to. I don't believe that under any theory of rate-making could such an adjustment be deemed as reflecting a reasonable adjustment.

Q. Well, do you want this uniform classification to be all-inclusive as to the commodities that move to and from Wichita?

A. You mean to the——

Q. I mean to all the territory that you have been talking about.

A. So far as classification ratings and class rates are concerned, yes.

Q. That would include all commodities that move to and from. You would want the Commission to fix this classification so that it would be all-inclusive, wouldn't you?

A. I didn't say that, Mr. Barron.

Q. Well, do you want that?

A. No.

Q. Why don't you want it?

A. Simply because I think some of those commodity [fol. 2775] rates should come before the Commission and the Commission determine as to whether or not they are unlawful or—well, I stop there.

Q. Could you tell the Commission what per cent of the total tonnage moving into or out of Wichita moves on strictly class rates today?

A. I could not.

Q. Is it 5 per cent of your total?

A. I could not. I think you have the figures available and can put it into your case, if you so desire.

Q. I asked you if you knew.

A. I don't.

Q. One more question: now, you are saying that you are agreeing with the Southern interests and the Southwestern interests, and I gather that that includes the desire for a universal equalization of rates for the purpose of decentralizing industry, is that correct?

A. Equalization of class rates.

Q. Yes.

A. And classification ratings.

Q. And is that for the purpose of decentralizing industry?

A. For the purpose of protecting the industry that we now have at Wichita and encouraging the growth and development of new industry in that area.

Q. Would you advocate, on behalf of your clients, the decentralization of the Wichita industries to such towns as [fol. 2776] Arkansas City, Winfield, Kiowa, and such points in southern Kansas?

A. We believe that they should have an equal chance if they——

Q. Even if that means the taking away of industry from Wichita?

A. Just a moment, Mr. Barron.

Chairman Aitchison: Mr. Barron, unless you permit the witness to complete his answer before you ask him another question, we will have to ask some one else to do the cross-examining at this time.

Mr. Barron: Pardon me, Mr. Chairman. I thought the gentleman had finished. He hesitated and I thought he had. If not, I apologize to him and ask him to finish.

The Witness: We are certainly not opposed to any city in our area having an equality of equal opportunity to attract industry, and that is one reason, Mr. Barron, that we are in this case. We are asking for that equality of opportunity.

Mr. Barron: That is all I have, thank you.

By Mr. Plunkett:

Q. Mr. Dyer, would you turn to page 5 of Section 3—Section C, I guess it is, of your Exhibit No. 141.

A. Page 5 of Subsection 2 of Section——

Q. Section C.

A. Well, I think you will notice that the Section C is fur-

[fol. 2777] ther subdivided. Now, which subsection is it? What is shown under the page number, Mr. Plunkett?

Q. Page 5—pages 1 to 10, inclusive, Section C. This is page 5. It is in subsection C-1.

A. Oh, I see. It is Subsection 2. Page 5 of Section C. All right.

Q. It deals with the Union Pacific Railroad, is that correct?

A. I beg your pardon?

Q. It deals with the data regarding the Union Pacific Railroad?

A. Yes, I have it now. It deals with the Union Pacific Railroad.

Q. Will you look at the data opposite 1940. Haven't you made a mistake there?

A. Beg your pardon?

Q. Will you look at the data opposite the year 1940.

A. Yes.

Q. Haven't you made a mistake there?

A. Under what column?

Q. All of them. You show average miles operated increased from 1,159 in 1939 to 2,049 in 1940, back to 1,162 in 1941.

A. I don't think so. I took those figures from the reports in the Kansas Commission's office.

Q. Now, will you turn to page 3 of the same section, back two pages. Will you look at 1940, and you find the same [fol. 2778] thing for the Missouri Pacific Railroad as shown on page 5 for the Union Pacific Railroad?

A. It evidently looks like the figures shown on the Union Pacific on page 5 for the line that you have indicated were an error.

Chairman Aitchison: Are you through, Mr. Plunkett? Any further cross-examination? (No response.) Mr. Dyer, you are excused.

(Witness excused.)

Chairman Aitchison: Now, the Commission hasn't any desire to seem arbitrary, but we are trying to work towards a schedule and we must ask the witnesses hereafter to keep within the limits of time alloted.

Mr. Grubbs: If your Honor please, I would like to say in connection with the ruling which your Honor just made,

that I have given an estimate of time and I have tried to make that estimate as conservative as possible. Now, in the case of at least one of our witnesses, I feel that he won't be able to finish his testimony in the time that we have given.

Chairman Aitchison: Well, anything in the nature of application for further consideration you can take up with the Examiners, and if you don't get satisfaction with them, you can take it up with the Division.

Mr. Grubbs: Thank you.

Mr. Dyer: I call Mr. Umbarger.

[fol. 2779] Chairman Aitchison: Mr. Umbarger, you have 10 minutes.

CHARLES K. UMBARGER was sworn and testified as follows:

Direct examination.

By Mr. Dyer:

Q. State your name and address.

A. Charles K. Umbarger, Wichita, Kansas.

Q. By whom are you employed?

A. By the Coleman Lamp & Stove Company, Wichita, Kansas.

Q. In what capacity?

A. Traffic Manager.

Q. Do you, as traffic manager of the Coleman Lamp & Stove Company, come in close touch with the purchases and sales to the extent transportation costs are involved?

A. I do.

Q. How long have you been employed by the Coleman Lamp & Stove Company?

A. About 23 years.

Q. Is the Coleman Lamp & Stove Company a corporation?

A. A Kansas corporation.

Q. Explain where the Coleman Lamp & Stove Company, its various interests, are located.

A. The factory and general offices are located at Wichita. We have a branch plant at Toronto, Canada, branch warehouses or branch houses at Los Angeles and Chicago, Philadelphia.

Q. You said a branch plant at Toronto. You mean the [fol. 2780] branch factory at Wichita and a branch factory at Toronto, Canada?

A. A branch manufacturing plant at Toronto, Canada.

Q. What is the investment in plant and equipment of the Coleman Lamp & Stove Company at Wichita?

A. Approximately one and one-half million dollars.

Q. That figure doesn't include any inventory?

A. It does not include any inventory.

Q. How many employees does your company have at Wichita?

A. About 1,500.

Q. What is the plant space?

Chairman Aitchison: You can abbreviate all this by saying you have got a big factory there. Now, go ahead. What is wrong with this rate adjustment? Come right down to the point and tell us how this rate adjustment hurts you.

By Mr. Dyer:

Q. What does the Coleman Lamp & Stove Company manufacture?

A. We manufacture gas generating lamps, lanterns, sadirons, camp stoves, gas pressure cook stoves, oil-burning heaters, and gas furnaces.

By Chairman Aichison:

Q. Do they move on class rates?

A. To the East, yes, sir, into Official Territory.

Q. Now, what is the substance of your complaint?

A. Well, our—we are asking the same basis of rates, class rates applicable in the Official Territory be extended to include Wichita, so that we will be on an equality with [fol. 2781] the manufacturers in the Eastern Territory with whom we compete.

Q. Well, how are you different now in respect to the rate treatment that you receive?

A. Well, I——

Mr. Dyer: Mr. Examiner, I have an exhibit that will indicate that, that he is going to introduce. And if you will let me go ahead, I would like to show his interest of record in this case.

Chairman Aitchison: All right, I will withdraw the question.

By Mr. Dyer:

Q. With whom in the Coleman Lamp & Stove Company did you discuss this case?

A. With Mr.—the president, Mr. W. C. Coleman, also with Sheldon Coleman, Vice President and General Manager.

Q. Were you directed by these gentlemen to appear and testify in this proceeding?

A. I was.

Q. In behalf of the Coleman Stove & Lamp Company?

A. I was.

Q. Does Mr. Coleman take an active interest in rate matters pertaining to his company?

Chairman Aitchison: That has nothing to do with this case.

Mr. Dyer: O. K.

[fol. 2782] Chairman Aitchison: Go on and tell us what is wrong with the adjustment.

By Mr. Dyer:

Q. Has there been a comparatively recent shift in the business of your company?

A. Well, yes. Since the United States entered into the war, naturally, our production has been curtailed on civilian products to the extent that at the present time, with the exception of a few minor repairs that we try to make, our entire production, our entire plant is on government contracts.

Q. Prior to this shift to war production, in what territories did your company distribute its products?

A. We covered the entire United States, also had considerable export shipments.

Q. What method of distribution does your company use?

A. On what we considered our small appliances, that is, lamps, lanterns, camp stoves, and irons, we handled through wholesale for jobbing houses. On heating stoves and furnaces, we handle through authorized distributors throughout the country.

Q. Does your company in all cases ship direct to your customer?

A. On carload shipments, we ship direct to the customer, regardless of where he is located. We also ship to our

branch houses in carload for reshipment l. c. l. into their respective territories.

[fol. 2783] Q. Why do you maintain these branch houses?

A. To meet freight and service competition.

Q. I believe you stated you have a branch house in Philadelphia?

A. We do.

Q. Do you have an exhibit—or rather, I would like to ask this question: what have you to say as to the importance of freight rates to your company?

A. Naturally, transportation of freight is a very important factor in any manufacture and sale of any item. Being located in the Middle West, we obtain practically all of our raw materials from the East. We are, of course, obliged to pay the transportation charges to the plant, then after the item is manufactured, we ship back into those eastern territories for distribution. We have the freight back into there also to pay.

Chairman Aitchison: Now, what is it you are complaining about?

Mr. Dyer: We are coming to that right now.

Chairman Aitchison: You are going to come to it right now. The witness is going to answer my question. He is going to tell me in the three minutes he has got left what is wrong with this adjustment from his standpoint.

By Chairman Aitchison:

Q. Is it in the inbound or the outbound movement of your [fol. 2784] product, your raw materials in or your finished products out?

A. Well, we are equipped mainly on, I would say on——

Mr. McCollester: I hope the record will show this pause.

By Chairman Aitchison:

Q. Are you able to answer my question?

A. It is pretty hard to answer, right off the bat.

Q. Why don't you——

A. Our interest, Mr. Commissioner, is to keep the equality of the rates.

Q. Well, you haven't said that you don't have it now.

A. We are at a disadvantage because of this rate break, affecting Wichita.

Q. Does the raw material that you manufacture come in on class rates or commodity rates?

A. Class rates.

Q. And it is the Western Trunk Line adjustment that you are complaining about?

A. Well, yes. It governs the rates into Wichita.

Q. And developed by Mr. Dyer in his statement?

A. Yes, sir.

Q. Now, on your outbound, do you pay class rates or commodity?

A. Into Official Territory, class rates.

Q. Governed by the Official Classification?

A. Yes, sir.

[fol. 2785] Q. And are you complaining about that?

A. No, sir.

Q. Your outbound rates are all right?

A. Well, I——

Q. I mean rates and ratings combined.

A. I would say that they are all right if we are kept on a level with the other——

Q. Are you?

A. Well, I don't know what might develop.

Q. Are you at the present time?

A. We are at the present time, yes.

Q. But you are not with respect to the raw materials coming in?

A. No, sir. I don't think we are.

Q. And that is because of the way the Western Trunk Line adjustment is built up?

A. That is right. The way we——

Q. Do you have any exception ratings?

A. Within the Western Trunk Line Territory.

Q. How is the Western Classification affected? Is it too high for you?

A. Well, I think on the bulk of our stuff it is.

Q. What rate do you pay?

A. Ordinarily—we have a fourth and fifth class rate on stoves and furnaces.

[fol. 2786] Q. Outbound?

A. Outbound. On inbound, of course, it depends on the article that we bring in, raw material.

Q. These rates are shown in your Exhibit 142, are they?
A. They are.

Chairman Aitchison: Continue, Mr. Dyer.

By Mr. Dyer:

Q. Do you have an exhibit, Mr. Umbarger, that you desire to offer for identification?

A. I have.

Q. Was that exhibit prepared by you and is it true and correct, to the best of your knowledge and belief?

A. It is.

Mr. Dyer: What will that number be?
Chairman Aitchison: 142.

(Exhibit No. 142, Witness Umbarger, marked for identification.)

By Mr. Dyer:

Q. On page A of that——

Chairman Aitchison: Now, he said this is explanatory. Your time is up.
Mr. Dyer: May I ask just two questions?
Chairman Aitchison: All right, go ahead.

By Mr. Dyer:

Q. Did your company bear the freight charges on shipments referred to in Section B of that exhibit?

A. We do.

[fol. 2787] Q. Would you further explain how those—you pay those freight charges?

A. We do pay the freight on all inbound——

Q. Section B, I am talking about, Mr. Umbarger. Section B is your outbound shipments.

A. I beg your pardon. On page 1 of Section B, page 1. We do pay the freight, naturally, on the shipments that go to our branches at Philadelphia. On shipments to our distributors, we equalize the freight with our warehouses, either at Chicago or Philadelphia. That is, we stand the difference between the Wichita destination and the branch house destination rate.

Q. Did your company pay freight charges on shipments that moved in, as shown on Section B, page 3?

A. We do; we did.

By Chairman Aitchison:

Q. You wouldn't want any different adjustment if somebody else paid it, would you?

A. I wouldn't say so.

Mr. Dyer: We are only attempting to show damage, Mr. Chairman.

Chairman Aitchison: This isn't a reparation case.

By Mr. Dyer:

Q. Was this exhibit prepared by you and under your direction?

A. It was.

Q. Is it true and correct, to the best of your knowledge [fol. 2788] and belief?

A. Yes, sir.

Mr. Dyer: We now desire to offer in evidence Exhibit No. 142.

Chairman Aitchison: Without objection, it is received.

(Exhibit No. 142, Witness Umbarger, received in evidence.)

Chairman Aitchison: Is there any cross-examination?

By Mr. Bell:

Q. Are you manufacturing the same line——

Chairman Aitchison: Now, gentlemen, I shall have to ask you to confine yourselves to one counsel for cross-examining. You can get along with one counsel.

Mr. Bell: I don't think there is much cross-examination necessary.

Cross-examination.

By Mr. Bell:

Q. Are you manufacturing the same line of articles today, under contract with the Government, that you refer to, or have you been converted to the manufacturing of munitions?

A. We are making lanterns and special stoves for the Government, and we are also making war munitions.

Q. All of your materials, so far as even manufacturing for the Government is concerned, are subject to priorities under the War Production Board, aren't they?

A. That is right; materials, yes.

Q. As a matter of fact, you can't get anything without permission?

[fol. 2789] A. That is right.

Q. Now, prior to this situation, as I understood it, you distributed the commodities you refer to all over the United States?

A. Yes.

Q. How long have you been in business?

A. A little over 42 years; about 43 years, I think.

Q. Located at Wichita?

A. Located at Wichita all the time.

Q. You have progressively increased your distribution?

A. We have.

Q. Over that period of time?

A. Yes, sir.

Q. You have been very prosperous in that location?

A. Well, we have——

Mr. Bell: That is all.

By Mr. McCollester:

Q. You have a competitor right in Philadelphia, do you not?

A. Yes, sir, we do.

Q. You get all your raw materials from Official Territory?

A. Well, the bulk of it.

Q. Yet you have been able, in the 12-year period, to increase your shipments right to Philadelphia, made out of raw materials brought from Official Territory, from six cars up to thirty-five cars and a total of one hundred twenty [fol. 2790] cars, to Official Territory, is that right?

A. That is right.

By Mr. Bell:

Q. Your answer was yes, wasn't it?

A. That is right.

Chairman Aitchison: Stand aside.

Mr. Dyer: May I have some redirect?

Redirect examination.

By Mr. Dyer:

Q. Do you consider that 120 cars good business?
A. That is just into this territory.
Q. Well, do you consider it good business in that territory?
A. Yes.
Q. In answer to a question put by the Chairman, I am just wondering if you understood the Chairman, when you said you were satisfied with your eastbound rates. Was it the classification ratings—I am wondering if you were confused. Was it the classification ratings that you are satisfied with or was it the rates that you now pay?
A. The rates we are paying.

Mr. Dyer: That is all I have.

By Chairman Aitchison:

Q. You are paying class rates, aren't you?
A. Yes, sir.

Mr. Williams: If the Commission please, I appear for the Public Service Commission of the State of South Dakota for the purpose of putting evidence——
[fol. 2791] Chairman Aitchison: We have got a witness on the stand, you know.
Mr. Williams: I thought he was excused.
Chairman Aitchison: He will be in just a moment. You are excused.

(Witness excused.)

Mr. Williams: For the purpose of putting in evidence a supplemental statement showing the natural resources of the state of South Dakota, as prepared by Mr. Carr, who has already appeared at the Indianapolis hearing and who desires to supplement his statement with factual data on the natural resources of the state of South Dakota.
Chairman Aitchison: Has it been distributed?
Mr. Williams: It has been distributed and I would like to have it marked for identification as an exhibit.

(Exhibit No. 143, marked for identification.)

Chairman Aitchison: Is there any objection to its being received in this matter, gentlemen? (No response.) All

right, let's have it. Exhibit 143, and without objection it is received.

(Exhibit No. 143, received in evidence.)

Mr. Williams: Thank you.

Mr. Barron: Mr. Chairman, has this been put in as testimony or as an exhibit?

Chairman Aitchison: 143, as an exhibit.

[fol. 2792] Now, again I ask, is Mr. R. E. Smith of Duluth here?

Mr. McCollester: May I make an announcement off the record, Mr. Chairman?

Chairman Aitchison: Yes.

(Discussion outside the record.)

Chairman Aitchison: Now, we will take up the American Trucking Association. Mr. Reed, are you ready?

Mr. Reed: Yes, sir. Mr. Chairman, I would like to have the privilege of making just a brief statement of the purpose of our appearance in this case. The evidence of the American Trucking Association, which we are presenting, is offered for the motor truck common carrier industry of the Nation, except that it is not offered for the account of the New England Motor Freight Bureau, Incorporated, of Boston, Massachusetts. It does include the Eastern Motor Freight Conference, Incorporated, of Hartford, Connecticut.

It is our position that a uniform classification as between trucks and rails, and nationwide, is essential to the commerce of the nation. We take no position on territorial rate levels or rate relationships. It is our position that the Commission should first determine the basis for uniform classification ratings and uniform relationships among the classes before determining rate levels and rate scales; that rate levels and rate scales for various territories and inter-[fol. 2793] territorially for the trucks and rails should be established concurrently, and that the classification basis as established should be applied after an exhaustive traffic survey of both rails and trucks for the purpose of determining a proper rate scale level.

We are offering witnesses and exhibits to show the extent that classification is now uniform as between trucks and rails

and territorials. Second, we are offering a classification formula upon which we say a classification may be established uniformly nationwide, and we are offering a traffic survey upon which we have reached our conclusions concerning uniformity.

Mr. Rives will present Mr. Jackson with the history of our classification and show the uniformity that exists today.

Chairman Aitchison: Well, this is bearing on the question of the rail classification?

Mr. Reed: Yes, sir, bearing upon our interest, Mr. Chairman, in a determination of the rail classification.

Chairman Aitchison: Suppose they concede your interest?

Mr. Reed: Yes.

Chairman Aitchison: Would you then need the testimony?

Mr. Reed: Yes, sir, because we think we are offering something that will have some value with respect to what should be done concerning these questions asked by the Commission in its September, 1940, inquiry.

Chairman Aitchison: Then it is really for the bearing [fol. 2794] it may have on the rail classification more than for the question of the interest of the person who presents it?

Mr. Reed: Yes, sir. We hope that the evidence will be of value in fixing the rail classification as well as the motor truck classification.

Chairman Aitchison: We are not fixing the motor classification now.

Mr. Reed: We are aware of the fact that you are not fixing the classification by order to be applied to the motor truck classification, Mr. Chairman, but the classification principles have no relationship to the character of modes of transportation. A commodity of a certain density or value is still of that density or value regardless of the mode of transportation.

Mr. Barron: Mr. Reed, may I ask, this survey that you have made, is that a survey of truck traffic or of rail traffic?

Mr. Reed: It is truck traffic.

Com. Splawn: Mr. Reed, you are undertaking to show, are you, that in answering these questions we have before us with regard to the rail carriers, such considerations as value

and density are of much more importance than cost of the service?

Mr. Reed: We are not going into the cost of service, Doctor, for the reason that we have decided that the cost [fol. 2795] of motor truck service would not be relative to the issues in this proceeding. We are going into the question, at this time, of the bearing that value and density should have upon classification ratings.

Com. Splawn: Well, in answering the questions, to what should be the classification, particular items, you think that the considerations are largely common as between the agencies and that the controlling factors are largely independent of differences between the costs, so far as the particular agency is concerned?

Mr. Reed: Yes, sir, it is our opinion that the principles of classification are common to both modes of transportation; that the cost of performing the transportation is another matter.

Mr. Rives: Mr. Jackson.

Mr. Reed: Mr. Chairman, I would like the record also to show that the evidence of the American Trucking Association has been distributed to the parties in accordance with the Commission's announcement at Indianapolis.

C. F. Jackson was sworn and testified as follows:

Direct examination.

By Mr. Rives:

Q. Will you state your name, employer and address.

A. C. F. Jackson, American Trucking Associations, Incor- [fol. 2796] porated, 1424 Sixteenth Street, Northwest, Washington, D. C.

Q. Your position and qualifications.

A. I am Assistant General Manager of that National Association, Manager of its Traffic Department, Chairman of the National Classification Board and Agent of the National Motor Freight Classification, holding powers of attorney from the approximately 5,000 carriers participating therein, and publishing the Classification on their behalf.

For a good many years I have been directly associated with motor carriers all over the United States. For several years I was Vice-President and Secretary of an interstate

motor common carrier, having charge of traffic matters, claims and partial supervision of operations. 5 years prior to that was spent in a managerial capacity in distribution requirements of a large manufacturer. Before that I spent 9 years in banking with some experience in operating a flour and feed mill and some incidental experience along a variety of other lines. Since 1933 I have been with American Trucking Associations, Inc., in an executive capacity, and particularly in charge of the traffic aspects of the activities of this National Association.

Q. Is the National Motor Freight Classification published by the American Trucking Associations, Inc.?

A. Yes. I am employed by the Association to act as publishing agent for the Classification and do so under duly filed powers of attorney issued to me by the individual [fol. 2797] participating carriers.

Q. Mr. Jackson, why are you appearing here today?

A. To place on record in this proceeding salient facts as to the construction and background of the National Motor Freight Classification, the extent of its use, to supply comparisons of the National Classification with the rail freight classifications directly involved in this proceeding, and show the need for maintenance of generally corresponding freight classifications for application by the two quite highly competitive modes of transportation.

Mr. Rives: Mr. Chairman, if there is no objection, I should like to have the current issue of the National Motor Freight Classification, the No. 6 edition, Agent C. F. Jackson's MF-ICC No. 12, ICC No. 12, and effective supplements, incorporated by reference in this proceeding.

Chairman Aitchison: Is there objection? (No response.) It runs to the whole document, does it?

Mr. Rives: Yes, sir.

Chairman Aitchison: There seems to be no objection.

By Mr. Rives:

Q. Mr. Jackson, are there any other points about the American Trucking Associations, Inc., that you feel should be made of record in this proceeding for the purpose of your appearance here?

A. Only, briefly, that it is the trucking industry's national association, a non-profit corporation, composed of 50

[fol. 2798] affiliated associations in the states, District of Columbia and Hawaii, whose members are members of the national association. American Trucking Associations, Inc., is governed by a Board of Directors elected from each state by the carriers; the Directors elect an Executive Committee which functions in the interim between meetings of the Directors; and under its authority; in connection with the varied activities there are a number of different committees appointed or otherwise designated to deal with various phases of the industry's problems. One of those is the A.T.A. National Traffic Committee, composed of over 90 representative leaders from all sections of the country, which is active on traffic matters nationally.

Appropriately, the National Traffic Committee of American Trucking Associations, Inc., provides guidance and lays down the general policies under which the National Motor Freight Classification is published and administered. I am the secretary of this committee. It was a predecessor of this committee that developed the plans, policies and arrangements initially for the trucking industry to publish its own National Motor Freight Classification. Under the guidance of this committee, a full time board of three men, called the National Classification Board of which I am chairman, makes investigations of all proposals submitted by carriers, shippers, receivers, or other parties in interest, regarding [fol. 2799] changes in the National Motor Freight Classification. This board prepares and publishes dockets, and conducts hearings on docketed proposals in cooperation with representatives of the tariff publishing bureaus.

Q. You say you are agent for the Classification and Chairman of the Classification Board; how long have you held that position?

A. From the start of all preceding issues of the publication. The initial issues were developed over a period of time starting back in 1935 and were published in March, 1936, effective with the rate provisions of the first interstate regulatory requirements upon motor carriers, April 1, 1936.

Q. Then you are appearing here as a representative of American Trucking Associations, Inc., as Chairman of the National Classification Board and as agent for the carriers for whom that Classification is published?

A. Yes.

Q. Please describe with a bit more detail your duties with regard to the Classification.

A. My work in connection with the Classification not only involves the mechanical requirements of all of the preparations and handling in connection with the printing and distribution of the Classification but also the interpretation of the provisions of the Classification; also maintenance of contact and justification of the Classification with the [fol. 2800] various regulatory bodies with which it is filed, and also the consideration and development of conclusions as to quality and changes in its contests.

Q. Mr. Jackson, have you prepared, or caused to be prepared some data respecting the National Classification, comparing it with rail classification, and to show necessity for maintenance of competitive parity?

A. Yes. Some tabulations have been made as to certain features of the National Classification, and comparisons with the rail classification, which have been compiled by me or directly under my supervision, for presentation as an exhibit in this case.

Q. Is the document entitled "Statistical and Analytical Data Indicating the Nature and Expense of Use of the National Motor Freight Classification and Comparisons Indicating Extent of Uniformity Between National Motor Freight Classification and Consolidated Freight Classification" the exhibit to which you refer?

A. Yes. This exhibit contains data and comparisons compiled by me or under my direction.

Mr. Rives: Mr. Chairman, may this be marked for identification as Exhibit 144?

Chairman Aitchison: 144.

(Exhibit No. 144, Witness Jackson, marked for identification.)

[fol. 2801] By Mr. Rives:

Q. Will you please refer to this pamphlet, which has just been marked for identification as Exhibit No. 144, and make any—what is the information contained on page 1 of the exhibit?

A. This is a list of the State Commision, with which the National Classification is filed for use in connection with intrastate tariffs. This list coincides with the Commissions or regulatory bodies shown on page 2 of Supplement No. 9 to the Classification, which is one state more than the

list shown on the inside of the cover of the No. 6 National Classification proper, the State Commission added in the interim being the State of Georgia.

The numerals contained in brackets in the left margin preceding some of the State Commision names are to give reference to the dates, cases or circumstances under which the National Classification was established in the particular state through order or some action of that State Commission, as indicated in the explanation of those numerical symbols shown at the bottom of this page. In most of the states where no special explanation is given the National Classification is operative as a matter of filing and establishment by voluntary publication without formal action of the Commission, similar to effectiveness under the Interstate Commerce Commision by statutory filing. Also while in a few of the states where symbols are shown the Com-
[fol. 2802] mission action may not have required the National Classification to be exclusively used intrastate, the majority of the Commission actions indicated have been an actual prescribing of the National for intrastate use by motor carriers and according to the information I have gathered the National is the only classification used intrastate by motor carriers in the majority of the other states.

The next sheet, page 2, shows the number of carriers listed as participants in the National Classification as of September 30, 1942, total 4,960. This is the total number of carriers, each carrier being counted only once whether listed interstate or intrastate. This tabulation is by states, according to the state of domicile of the individual carrier. As most of the carriers are listed under I. C. C. requirements and operate interstate, obviously most of the carriers operate in more than one state so the figures on this sheet do not represent all of the carriers us- the Classification in a particular state; thus it follows that the number of carriers operating in a single state would be far greater, probably several times more, than the number on this sheet as the carriers with headquarters in that state.

Of the total number of Class I carriers whose operations could reasonably be expected to require use of a classification, 85 per cent are listed as participants in the National
[fol. 2803] Classification. This statement is based on a check made in October which developed that of the 1223 Class I carriers which submitted annual reports to the

I. C. C. for the year 1941: 198 were contract carriers; 49 were automobile transporters; and 78 conducted specialized operations handling such freight as household goods, motion picture film, heavy commodities, oil-field equipment, petroleum, milk and other bulk commodities or engaged exclusively in local cartage service. None of these operations would be suseeptible to use of a freight classification. This leaves only 898 Class I carriers of general commodities who would be likely to require a classification and of these 765 are listed as participants in the National Motor Freight Classification.

Q. Do you contend that this page purports to show universal use of the Classification?

A. That is correct; except for New England and to the extent the rail classification is used, the National is the Classification generally used throughout the country by motor common carriers.

The totals at the bottom of this sheet, which show the number of carriers listed in each of the preceding issues, shows the steady progress toward maximum utilization of this as the freight classification predominantly used by motor carriers.

Q. Referring to your sheet headed "Partial List of [fol. 2804] Motor Freight Tariff Bureaus", starting on page 3 and carrying over to page 4, what is the nature of this list and the reason it is included in your exhibit?

A. This is a list of non-profit, motor carrier tariff publishing bureaus or conferences that publish tariffs that are governed by the National Motor Freight Classification. This is only a partial list, but with the exception of the bureau at Boston it comprises all of the major bureaus that go to make up the network of such organizations that blanket the country, reciprocating and cooperating together in handling rate and tariff matters for the large group of motor carriers who have such matters taken care of through organized handling. With the partial exception as to the Bureaus at Hartford, Connecticut and the two in California, the Bureaus on this list use the National as the only freight classification applicable in connection with all of the tariffs they publish for motor carriers.

The territory and descriptions shown at the right of the respective bureaus was made brief, so it should not be taken as a precise and accurate delineation of the scope

of the individual bureaus; however, these descriptions do indicate the general territory over which the respective organizations publish rates for their members of other cooperating bureaus, and this condensed list is included in the exhibit to show that the National Classification is [fol. 2805] the one generally being used by the leading organizations throughout the country.

Of course, there are numerous other organizations or agents that are using the National Classification in connection with their tariffs as well as hundreds of carriers who publish individual tariffs.

Q. What have you to say regarding page No. 5 of your exhibit?

A. This table carries the results of a tabulation, recently made for presentation of this data as facts for the record in this proceeding, to show the number of ratings in the National Freight Classification according to the various classes and as between the East, South and West territorial distinctions in the ratings in the Classification.

The classes are indicated in the column at the left. Carrying across from each is shown the number of less truck-load, any quantity, volume and mixed volume and the total ratings in the East; then the same treatment or count was made as to the South ratings, the results being shown in the major column here headed "South"; a similar count and listing is shown for the "West" ratings.

Since it may not be entirely clear, it might be well to explain the symbol (0) "zero" at the top of the column headed "Ratings." This is a designation that actually appears in the rating column in the Classification in connection with the number of items shown in the exhibit. [fol. 2806] This rating or symbol is used in the Classification to make it clear that the particular article is not rated in the Classification but is only to be accepted in accordance with provisions in the various rate tariffs of the participating carriers. This is explained on page 1 of the Classification. This corresponds with items in the Rail Classification that are marked with a symbol, that is with a zero with a plus on top, roughly, which is explained in their Classification as meaning "subject to rates and regulations of individual carriers."

In making this check the ratings which in the Classification are uniform as between the East, South and West, and which are shown as a single figure in the rating column in the Classification, were counted three times, that is, the rating was counted once under the East and again under both the South and West.

The ratings in the "uniform" column are not additional, but only show the number of ratings that are the same in the East, South and West and thus provide territorial uniformity of ratings.

In determining uniformity this tabulation was not made solely according to the ratings as they appear in the Classification, but consideration was given to the percentage relationship to first class of that rating as it is generally applied in each of the three territories. For instance, and referring to about the middle of page 5 of the exhibit, [fol. 2807] and as expressed in the extreme right-hand column, uniformity was considered to be ratings that are "F" or 55 per cent of first class in the East, and fourth class in both the South and West which are 55 per cent. Similarly the percentage relationship to first class, rather than the rating as stated in the classification, has been used to show uniformity throughout the exhibit; this being particularly noticeable in the lower classes.

This tabulation is included to supply facts as to the total of ratings in the Classification and the number in the various classes. For instance, and as being illustrative, the "East" ratings total 10,004 l.t.l. ratings A.Q., or any quantity, 8,477 volume, 116 mixed volume and a total of 18,693 ratings.

For the purpose of showing the extent we have maintained uniformity with the rails, I checked back against a similar tabulation of the ratings in National Classification No. 4 through Supplement No. 3. This check established that among the changes shown, which are worthy of note are: (1) the number of l.t.l. ratings has increased 27,000. Nearly 1,900 of this increase was caused by a shifting of approximately that number of ratings from "A.Q." to l.t.l. ratings, through establishment of "volume" ratings. This was largely brought about at the time when the Rail Classification was revised in style when they published [fol. 2808] the so-called "simplified" Consolidated Freight Classification No. 14, which was effective December 31,

1940. This substantial movement of changing from "any quantity" ratings to the establishment of "CL" and "LCL" ratings was followed by establishment of "volume" and "LCL" ratings in the National Classification effective the same date. This shift of course correspondingly effected an increase in the number of volume ratings.

Chairman Aitchison: I wonder why you are keeping away from truckload.

Mr. Rives: We are going to get that; we will come to that later.

The Witness: Comparison of this tabulation with the one of three years ago shows the total of the volume ratings has increased nearly 3,000 in each of the territories. Thus, there has been nearly 1,000 new l.t.l. ratings and over 1,000 new volume ratings established in the interim.

It might be interesting to observe that in this interim there has been an increase of approximately 900 in the number of third class ratings; 700 in the Class 7 ratings in the East; 300 each in fourth class and Class 40; 400 in the fifth and second classes and 200 in the first-class ratings; also there is an addition of one in the number of classes now shown, this being one rating in Class 57. Comparison of this current tabulation with the one of three years ago demonstates that in our maintenance of uni-[fol. 2809] formity with the rail ratings there has been a downward trend in the level of ratings, to such extent as this is evident from a comparison of arithmetical summaries of ratings.

By Mr. Rives:

Q. What is the nature and purpose of the tabulation on page 6 of your exhibit, the heading of which mentions observance of "minimum classes"?

A. This is a compilation also by count of ratings, and that made by checking the ratings of the motor against those in the Rail Classification, to show the extent that ratings in the National Classification differ from those in the Rail by reason of the point of policy that has been observed throughout the existence of the National Classification whereby certain classes are observed as minimum. The tabulation on this page shows the number of ratings that are higher in the National Classification than in the

Rail through observance of this policy. It shows that in the East there are 31 ratings shown in the Rail Classification as Column 40 which in the National are shown as fourth class, which is the lowest or minimum for l.t.l. "East" ratings shown in the National Classification. It also shows 50 East ratings at sixth class, or the minimum for volume ratings in the National, which in the Rail Classification are shown in Classes 25, 22½ and 20. In the South and West there are no differences from this standpoint as to l.t.l. versus l.c.l. ratings but there are differences in even greater number in the volume ratings as [fol. 2810] compared with the rail carload ratings. The minimum classes maintained in the National in these territories are: For the South sixth class l.t.l. and seventh class volume; in the West fourth class l.t.l. and fifth class volume.

This point of policy as to minimum classes was established after extended consideration by the industry and discussions at meetings participated in by a large number of motor carrier representatives from all parts of the country, in an effort to thus aid toward the maintenance of a minimum level of revenue.

Compared with a corresponding tabulation of three years ago, there was but nominal change in the East ratings, in the difference compared with the rail classification due to minimum ratings, but an increase of over 300 volume ratings in the South and over 200 volume ratings in the West that differ from the Rail.

Q. Now, will you please make any statement you desire with regard to the next tabulation, which starts at page 7 and carries on through page 23 of your exhibit, the heading of which shows this to be the difference in ratings, descriptions and minimum weights in the National versus Consolidated Classification.

A. This is a list of items which in the National Classification are different from provisions of the rail classification. [fol. 2811] The differences may be either as to the ratings or descriptions or other portions of the matter. As the matter is set up comparatively with that in the National Classification appearing on the left, shown opposite the corresponding provisions of the rail classification, this portion of the exhibit should be self-explanatory.

At the end of this portion of the exhibit, on page 24, there is a list of differences which are items in the rail

classification that are not carried in the National Classification. As their descriptions indicate, these are items that largely can only be moved by rail and would not be encountered in motor carrier operations, so it has been found that these can safely be omitted from the motor classification.

By Chairman Aitchison:

Q. Now, take the first item, emigrant movables; emigrant movables, prepaid, an old friend of mine. Why can't you move emigrant movables by truck?

A. I don't know as there is any impossibility in their movement except their movement has not been encountered and the absence of that item for some six years, without a single request for its insertion, is demonstration to me that it is not necessary.

Q. Do you mean that the items which are included in the Consolidated Freight Classification as emigrant movables in the aggregate do not move or have not moved in six years by truck?

[fol. 2812] A. All I know with regard to that is the statement I have just made. I haven't had any demonstration of need for classification listing on that item. That is an exception item of this group, however.

Q. As a matter of fact, are those items carried by the household goods movers?

A. No doubt, sir, and no doubt others are carried with the passengers or forwarded on railroad trains. Household goods operations doubtless would take care of most of those, yes, sir.

Q. You have no classification which is used by the household movers, have you, household movers?

A. Yes, we have in the National Classification descriptions and ratings for used household goods comparable to those in the rail, except for the packing, but that classification description is not used to any great extent. The specialized household goods transporters have their own tariffs with their own description of used household goods, which move without packing, and so forth.

Q. They are virtually, then, out of this classification?

A. Yes, sir, as to used household goods. The balance of the items are largely rail items in that list.

Except for this comparatively minor extent of differences, the contents of the National Classification embrace all of the articles described in the rail classification.

[fol. 2813] The first and principal portion of this list constitute differences which have resulted from consideration of proposals handled under docket procedure.

By Mr. Rives:

Q. What do you mean by docket procedure?

A. By docket procedure I refer to the arrangement that has been operative throughout the existence of the National Classification under which anyone desiring a change in the ratings, descriptions or other provisions in the classification may submit a proposal, on application forms broadly distributed. As soon as sufficient proposals or applications have assembled, a brief description of such proposed change is included in a list or docket which is published in Transport Topics, a weekly newspaper that carries truck news which has broad circulation throughout the country. [fol. 2814] Hearings at the designated times are conducted at three convenient places, Atlanta, Washington and Chicago, affording opportunity for personal appearance by shippers, carriers or any interested parties to submit data regarding the docketed proposals. These docket hearings are conducted with the co-operation of Tariff Bureau representatives. Interstate Commerce Commission representatives are invited to be present and usually attend these hearings; a verbatim record is maintained of all statements made relative to subject on the dockets, and copies of this record are supplied to the Interstate Commerce Commission. Following the hearings, the information submitted is carefully analyzed and dispositions are issued by the National Classification Board, providing for review by the National Traffic Committee before changes are actually published. This portion of this exhibit lists the items which today are different in the National Classification by reason of such docket handling.

Q. Please turn to the next portion of your exhibit on page 25, the heading of which refers to docket hearings. Do you have anything to say with regard to this?

A. This is to supply a list of the National Classification Dockets handled to date. It shows the dates of the issues

of Transport Topics in which the respective dockets were published and the times and places of the hearings held.

Q. Do you mean to say, then, the differences listed in [fol. 2815] your exhibit pages 7 to 23 are the only differences today between the National Classification and the rail Classification?

A. No, this one set of pages does not represent all the differences between the two classifications. However, this, along with the ratings that differ by reason of the heretofore observed policy of minimum ratings, as shown on page 6 of the exhibit does represent al of the present differences in the ratings. This list starting at page 7, also carries all of the differences in listing and description of articles as such.

However, there are numerous differences throughout the National Classification in the packing requirements set up in connection with the individual descriptions. This refers to the detailed supplemental specifications as to quality of containers, such as tensile strength, much of which detail is omitted in the National Classification. It does not refer to the distinction as to form of container that would be acceptable, such as differences between shipments in bales, or loose, as distinguished from shipments in boxes; where the description stipulates an article "set-up" as distinguished from "knocked-down", with difference in rating by reason of this difference in condition of the article as prepared for shipment.

These characteristics, as to kind of receptacle, or the form or character of the article, as prepared for shipment, [fol. 2816] which usually will have a bearing upon the space it will occupy, its loadability, its susceptibility to damage or other characteristics of transportation, have been preserved, by maintaining distinctions in ratings comparable to those in the rail classification, not only because these differences in character of the articles as shipped justify the differences in rating but also because to do otherwise would have made for a competitive disparity.

Departures using only a single rating which disregards distinction as to form of container or the differences in the size or shape of the article would require the selection for publication of the rating either the lowest or highest rating. Selection of the lowest rating would result in needless loss of revenue. Selection of the highest rating would

create a competitive disparity between the trucks and rails with resulting loss of traffic.

Q. Are we to understand that these lists of differences between the National and rail Classification represent the only changes that have been published in the National Classification in the past?

A. No. There have been many other changes, as shown by the fact that we now have in existence the 6th publication since 1936, with each reissue publishing numerous changes and other changes having been published in the hundreds of pages of supplemental matter that have been [fol. 2817] issued. The big bulk of these changes have been changes published to meet the revisions made by the rail Classification Committees. These changes have been published automatically, to keep motor carriers competitive with rail carriers, pursuant to a point of policy laid down some time ago for the guidance of the National Classification Board and Agent by the National Traffic Committee, or rather, its predecessor committees, which point of policy has since been reconsidered and again confirmed on a number of occasions in the interval since the National Classification was first published.

Q. Will you please give at least one illustration of such occasion and reconsideration?

A. This was one of the points which consumed much of the time of the industry representatives who made the initial plans for publication of a motor freight classification back in 1935. At that time there was a point of policy, as a further distinction between rail and the truck freight classification, that has since disappeared. The initial policy stipulated that ratings in the National Classification should only be provided in what were then called the major classes, meaning Classes 1, 2, 3, etc., and that there should not be shown the then comparatively few intermediate classes, or percentage ratings falling between these so-called major classes. Subsequently, there was a movement by the rail committee whereby they published a quite sub- [fol. 2818] stantial number of changes establishing additional ratings at intermediate or percentage classes. Among the articles involved in that adjustment were numerous iron and steel articles, machinery and agricultural implements. To illustrate, they established, effective December 24, 1936, a number of Column 40 carload ratings, in Official territory in Consolidated Classification which, under our

existing policy of observing only major classes, in National Classification No. 2 were published as the next higher major class, which was 4th class. Immediately upon distribution of the respective publications we started to receive complaints from motor carriers contending that they were about to lose or had already lost traffic essential to maintenance of their operation and demanding that the National Classification ratings be revised to the same level as in the rail classification. There was such a volume of requests in this connection and the situation was further aggravated by other similar changes to percentage ratings being published in an early supplement to the rail classification, and that the matter was taken up with the National Committee and with result that at the meting in May, 1937, this policy was revised, and there were then established, and have since been maintained in the National Classification, ratings comparable to those in the rail classification including intermediate percentage ratings; the only exceptions are the difference in ratings that have [fol. 2819] resulted (1) under our docket handling and (2) those by reason of the described policy as to minimum classes.

Q. Are there any other instances to which you care to call attention, where there was demonstration of the desire and need of the trucking industry to be on a basis of equality with rail carriers as to classification ratings?

A. Numerous specific situations could be mentioned. There have been times when motor carriers have been so concerned regarding changes in process by the rail classification committee that requests have come in by mail, telegram, and phone to determine whether comparable ratings will be established in the National Classification, and to urge that this competitive parity be maintained, and even without any difference of effective date. There have been instances where, following our national classification docket hearings, there has been uncertainty as to whether ratings in the National Classification should be higher than in the rail classification, and the matter taken up at meetings of the National Traffic Committee, with the result that ratings no higher than those in the rail have virtually always been approved for publication.

At one time, three or four years ago, there were a few motor carrier representatives who appeared particularly

desirous of having ratings increased on commodities which might be called "light and bulky," and as a step toward a [fol. 2820] possible movement in this direction, a number of articles were listed on our docket as proposals for rating increases. The outcome as to most of those was also to refrain from publication of ratings that would place the motor carriers out of line competitively and thus likely to lose traffic.

To illustrate, we had a proposal, on National Classification Docket No. 3, to increase the rating on soda straws, which weigh about eight pounds per cubic foot, or less, on which the proposed decision of the National Classification Board was indicated to be for publication of an increase that would place the ratings by truck several classes higher than by rail. When word of this contemplated action reached some of the motor carriers, we immediately started receiving communications, in all forms, contending that the traffic involved was important to them, and demanding that the rating not be increased. This was taken up at a meeting June 24, 1937, when the National Classification and Rates Committee, the then predecessor of the National Traffic Committee, decided by unanimous vote that the National Classification should be kept competitive by refraining from publishing the increase in this item that had been proposed. Even at National Committee meetings during the current year of 1942, there has been reconsideration of this policy, with reconfirmation of the desire and need of the trucking industry to be kept competitive generally [fol. 2821] with the rails in its classification of commodities.

Q. You have been speaking of proposed increased motor carrier ratings which would throw them out of line with railroad classification ratings. Since your incumbency, have you had the experience of motor carrier proposals that classification ratings be reduced?

A. Yes, there have been a number of them.

Q. Were those proposals, when originally made, grounded on the suggestion that the particular ratings were too high, viewed from the standpoint of classification principles?

A. As proposed, that was usually the reason stated.

Q. What was the disposition of those proposals?

A. A few of the downward changes went into effect. For the most part, the proposals were not adopted and made effective.

Q. Why?

A. When thoroughly analyzed and considered in the light of the evidence submitted, it seemed rather certain in most instances that the desired rating reductions did not rest on very strong grounds of classification principles.

Q. What appeared to be the real motivating grounds?

A. Usually it became apparent that the motive was to make effective the Motor Carrier Classification reduction because of the hope or expectation that certain added traffic would be diverted to the proponent line or lines, notwithstanding the cuts would probably have been met by the railroads.

[fol. 2822] Q. Now, while you have stated the demonstrated desires of motor carriers that they be maintained on a basis of competitive uniformity with rail classification ratings, what do you have to say as to the propriety of rail classification principles as a guide for establishment of classification ratings for motor carriers?

A. The position of the organized trucking industry on classification principles as a proposal for consideration by the Commission is to be submitted by a subsequent witness, Mr. Waring, who is Chairman of an A. T. A. Sub-Committee on classification principles, so I should refrain from the detailed discussion of the number of classes, their relationship one to another, the classification factors or principles to be used, and the force or importance each fateor or element should have in grouping articles into any of the several classes.

However, it is appropriate, for the purpose of my presentation, that I should discuss these elements or classification factors from the standpoint of the similarity of the classification principles which, by themselves, warrant and call for uniformity. Previous witnesses have submitted exhibits and testimony outlining the several factors usually observed in classifying freight. As I go back over these, I fail to find any substantially different characteristics of one form of transportation that would necessitate or justify use of that classification element in any [fol. 2823] substantially different way, or in any different degree, from use of that classification element in classifying the same freight for the competing transport mode.

For instance, if an article is composed of material that is likely to contaminate other articles with which it might be associated while en route, that likelihood of damage to

other freight will exist in movement by truck in a degree comparable to its presence in the transporting of rail less carload freight. If it is of materials that might be injurious to persons handling it, such as acids, or high explosives, or with projections or sharp edges, there is as great likelihood of injury to men handling the shipment over the platforms, through the terminals, or in picking up or delivering the shipment, in connection with a rail movement, as there would be if it moved by truck.

If an article is unusually fragile, and thus is unusually susceptible to breakage, there would be little if any difference in the risk to motor carriers as compared with the risk in rail handling. Since truck service embraces practically all items found in merchandise traffic, and all directions and distances of movement, and is proving its essentiality in commerce, and as the extent of influence on the rating because of the classification or factor of value often has much to do with the ability of the article to experience maximum traffic movement, value is as important in classifying merchandise or materials to move by truck as when intended for rail movement. [fol. 2824]

Also it has been the practice over the entire life of the National Classification, that there be maintained differentials in ratings according to the distinctions in different forms of packing that lend themselves to distinctions in the descriptions. For instance, there is justification for different rating of articles shipped "knocked-down" from the rating on the same article set-up. Another illustration of a justifiable difference is the distinction between boxed or crated materials, as compared with the same article shipped loose, or on skids, or where the article is one that would not permit of stacking.

There is, in my judgment, one place where some difference of provisions can be maintained between rail and truck classification, and this is as to some of the further refinements of specifications as to packing receptacles and other materials. In the National Classification, while we have maintained separate ratings for the different types of containers, or forms of outer packings, comparable to those in the rail classification, there has not been established all of the detailed provisions scattered through the classification, as matter supplementing the descriptions to stipulate tensile strength and some of the other detailed

provisions of this nature. Also, in the Motor Classification, [fol. 2825] rules as to the construction of containers are couched in considerably more general terms than those found in the rail classification rules, and particularly their rules 40 and 41.

The simplicity maintained in this connection is in keeping with the practices observed by motor carriers from the start of the development of motor transportation, and may be said to provide for the preservation of one of the so-called "inherent advantages" of truck service. Contrary to a statement by an earlier witness, from my own experience as a motor carrier, as well as according to the information I have gathered in my contacts over the country, and from several years of duties in the active handling of problems of the trucking industry's National Classification, it is possible for shipments to move safely by motor carrier without it being necessary in all instances to have strict adherence to some of the packing specifications established for rail carriers. This is due in part to the lesser degree of shock encountered in movement in pneumatic-tired singly-operated units over the highway, and in part to the fact that, being often a more direct service between the point of pick-up and place of delivery, there is less handling involved. The advices that come to me as Secretary of the Freight Claim Section of American Trucking Association, Inc., show that motor carrier claims are not much higher relatively than the claims experienced by rail carriers, and do not result in any major degree [fol. 2826] from failure of the containers through any differences in specifications of the materials that go to make up the boxes and other receptacles. Of course, it must be admitted, in this connection, that in substantial degree the same type of containers will be used by the shipper or manufacturer and particularly by the latter, as often the form of transportation is not known when the materials are packed at the factory or other point of base of supply.

Of course, there are some other very notable exceptions in truck service where differing form of containers or degree of packing preparation is satisfactory or necessary, such as in specialized services in the transportation of used household goods, or where there is a volume movement of garments going directly from one point to another where they are left on hangers and suspended in the trucks, or in such other specialized situations as where vehicles are

prepared with racks on which typewriters or other articles are mounted. These distinctions as to packing, however, are usually treated specifically rather than to be governed by provisions in the generally used freight classification.

Q. Which of the National Classification rules pertain to packing requirements and have any relationship to the rail classification rules 40 and 41 which you mentioned?

A. The principal packing rules in the National Classification are rules 5 and 5-½.

[fol. 2827] Q. What further do you have to submit with regard to rules in the National Classification?

A. For brevity, yet to supply a comparison of the rules in the National versus those in the rail classification, I have prepared a synopsis of the rules in the respective classifications, with brief indication of their differences, which comparison is found in my exhibit starting at page 26 and continuing on through page 43.

While I believe these pages will be largely self-explanatory, it might be well to call attention to a few of the rules that differ from the rules dealing with the same subject in the rail classification, for the purpose of submitting reasons for such differences. For instance on page 28 one comparatively small synopsis entry covers a portion of rule 5 which provides for a penalty if containers or forms of shipment used differ from those authorized in the descriptions in the Classification. In the National Classification this provision is very simple, providing only for a penalty of an increase in rating to the next major class higher than the highest rating specified in the Classification. Compared with this, the rail provision is a page in length and provides percentages depending upon the types of containers authorized or substituted. The National Classification basis of one class higher probably does not provide any great difference in aggregate charges but was established in its present form in order to provide a more [fol. 2828] simple rule for application to motor transportation.

Other rules where differences exist include National Rule No. 6 as to marking of shipments where the truck classification provides comparative freedom of marking, except for a minimum of marking sufficient for identification, when shipment occupies a major part of the vehicle, which as shown by the exhibit differs from the provision of rail classification Rule 6, which might be used for comparison.

The National Classification Rule 10, which provides for charges to be assessed generally on gross weights, provides there will be no charge for the transportation of dunnage, while the rail rule contains charges for transportation of dunnage. There is a fundamental reason for the difference in the rules of the two carriers. Motor Carriers do not need to provide a restrictive rule concerning dunnage because they have little occasion to fear excess use of dunnage in their vehicles, as is the case in connection with the rails. There would not be occasion for as great use in connection with the trucks as in connection with rail transportation; therefore, the same rigid rules concerning dunnage need not be made applicable to motor transportation.

A note-worthy difference in the two classifications is found in the National Classification Rule 13 dealing with volume shipments. In addition to defining a shipment it de- [fol. 2829] fines what is termed "L. T. L.," "A. Q.," and "Volume" ratings. While throughout the Classification there are minimum weights carried in connection with these volume ratings, there is not in the National classification any attempt to stipulate loadability represented by the volume minimum weights. Consequently, there are no rules as to over-flow, follow-lot, use of various size vehicles, or substitution of vehicles, whereas there are several rules pertaining to these matters in the rail classification: such rules are not necessary in the truck classification.

The volume minimum weights shown in connection with volume ratings throughout the National Classification are the same as carload minimum weights in the rail classification. These minimums were decided upon before the initial National Motor Classification was published, after extended deliberations participated in by industry representatives from all sections of the country in which endeavors were made, unsuccessfully, to develop some other method. The conclusion was that it would be physically impossible to place in the nationally published Classification for the trucking industry minimum weights that would be considered standard for motor carriers in the different areas of the country where operating conditions, topography, types of vehicles, and weights and size regulations are so widely different. Obviously, no common rule as between truck and rail carriers could cover these great varieties [fol. 2830] of differences.

While other of the items shown in this portion of the exhibit might be pointed to, probably the most important remaining feature is the fact that there are a number of rail classification rules which would not be suited for truck conditions; for instance, rail rule 35, which contains detailed specifications for tank cars. Rail rule 43, which provides a contract to be executed when a man is traveling with property other than livestock, obviously would have no place in motor carrier operations. There are several other such rules in the rail classification.

Summarized, the National Classification rules contain all of the fundamental requirements necessary to be provided for in the Classification for the trucking industry, but in a greatly simplified style as evidenced by the fact that they consume a total of 8½ National Classification pages as compared with 34 pages of rules in the rail classification. However, it should be emphasized that these differences in rules, reflecting differences in operating conditions, in no way affect the previously expressed need for uniformity as to ratings and minimum weights.

Another substantial difference in the language due to the differences in the modes of transportation will be found in the differences in the two uniform bills of lading in the two Classifications. The motor carrier bill of lading [fol. 2831] form in the National Classification is couched in truck terms; it deals with vehicles and highway routes and not cars and rail routes; its wording fits truck service which involves pick-up and delivery rather than station-station terminology of the rail bill of lading; and it carries other provisions necessarily revised or added to fit the differing operating and liability conditions of motor carriers.

Q. Assuming the Commission finds there should be uniform ratings as between rails and trucks, would there be any necessity for the continuance of a separately published classification for each mode of transportation?

A. Yes. Regardless of the uniformity of ratings, in the establishment of such uniformity, there is involved the use of a difference in terminology that is necessary to reflect the conditions and facilities employed in the different means of transportation. I have gone into some detail in the explanation of our rules and terms of our bill of lading and packing specifications, all of which demonstrate the neces-

sity of a separately published classification covering the two transport modes.

A still further reason for maintenance of a separately published classification is the coordination between the various rate tariff publishing bureaus and the National Classification. For instance many of the tariff publishing agencies publish items subject to rules and regulations of [fol. 2832] the National Classification, and the close collaboration of the tariff bureaus in the publishing of the national classification faciliates maintenance of their interrelated tariff matter and provides for their members a measure of supervision and control of classification procedure and policies. This is an important feature of a separately published classification in that the individual viewpoint of the truck lines is considered rather than the collective viewpoint of the two transport modes. There also is benefit through greater ease of handling classification matters along with other problems being regularly dealt with through the many cooperating organizations of the industry and in the maintenance of compliance with publishing and handling requirements of the various State and Federal regulatory bodies.

Q. Does that complete your statement?

A. Yes. There are two very minor corrections in the exhibit that I would like to point to, if I may.

Q. Very well.

A. On page 15, in the large column "Consolidated," in item 19820, the package reference should be changed from "835" to "836." On page 18, about the middle, in the National Classification side, under "Cabinets" there is a reference to page 9. That should be changed from "9" to "15." That is all.

Mr. Rives: I offer in evidence Exhibit No. 144.

Chairman Aitchison: It is received.

[fol. 2833] (Exhibit 144, Witness Jackson, received in evidence.)

Mr. Rives: The witness is tendered for cross-examination.

Mr. Scott: Mr. Chairman, before cross-examination begins, I would like to ask Mr. Jackson one or two questions for clarification.

Chairman Aitchison: Very well.

By Mr. Scott:

Q. With respect to your testimony having to do with packing requirements, am I correct in summarizing it to be this, that you maintain there are certain inherent advantages that the truck has over the rail so far as packing requirements are concerned?

A. Yes, sir.

Q. Is that correct?

A. Yes.

Q. And it is only to that extent that the differences exist in the two classifications, in reference to packing requirements?

A. Up to this time and considering the rail classification as it has been, we have made some slight departure as shown by the two sections of this exhibit, one as to minimum classes and the other as to items where, following due consideration, we have found it was necessary. However, those are comparatively small, less than one per cent of the total [fol. 2834] ratings. From here on, what we think there should be will be taken up by the succeeding witness, if that could be answered by him.

Q. You believe that so far as your packing requirements are concerned,—that is the only thing I am talking about, your packing requirements——

A. Yes.

Q. —that the two modes of carriers could get nearer together still?

A. Yes, I think they probably could, bearing in mind that we are maintaining and have maintained and feel we should maintain some differences in ratings by reason of the form of containers, a separate rating for boxes as compared to loose. We feel that has been correct in the past and has been necessary. We feel it should continue for the future, and that we should be the same as rail as to those different ratings by reason of the different types of containers. However, we have felt there was propriety in modifying to a lesser degree the specification necessary as to the tensile strength of the kinds of containers falling in that category.

Q. But to that extent you think that is an inherent difference that the trucks have over the rails?

A. Yes, sir.

Mr. Scott: Thank you.

Mr. Donnelly: May I follow that with an actual case? [fol. 2835] I am interested in pottery, sometimes referred to as a fragile commodity. I think you treated it in your answer to the Bench.

By Mr. Donnelly:

Q. Do you expect to contend for the rules and regulations in that particular regard that you now have? In other words, if I may explain, when we pack pottery, we, as you have said, do not know what form of transportation it is going to take. Are you going to continue, or to contend here, for the rules which you now have which do not deal with the tensile strength of packages such as that?

A. Yes, sir.

Mr. Donnelly: That is all.

Chairman Aitchison: I would like to ask a question before cross-examination.

By Chairman Aitchison:

Q. The propriety of the motor classification is not before us directly, and this is tendered to us for such bearing as it may have upon the propriety of the rail classification. What inference do you draw as to the changes which should be made in the rail classification as a result of the consideration of your testimony?

A. I could not answer that without going into the testimony of the next witness.

Chairman Aitchison: I see.

The witness: I have tried to show——

Chairman Aitchison: We are to understand you simply [fol. 2836] have been laying a background?

The Witness: Yes.

Chairman Aitchison: Very well. You may cross-examine.

Mr. McCollester: I have a few questions.

Chairman Aitchison: Mr. McCollester.

Cross-examination.

By Mr. McCollester:

Q. Mr. Jackson, if it is your opinion that there will have to be separate classifications for railroad and motor

carriers, would it follow that there would continue to be the separate classification committees or different organizations that are set up to determine the ratings and arrange for the publication of the separate classifications?

A. Yes, sir.

Q. Now, is it not a fact that you know from your experience, that where there are differences between the ratings in the railroad classification as between the several classification territories, those differences are the result of differences of views of the members of each of the several classification committees as to how a commodity should be rated in its territory, in the territory governed by that committee?

A. Well, first, of course, our committee is a single committee.

Q. Yes.

A. As to the truck classification.

[fol. 2837] Q. Yes.

A. So the answer would have to run to what the rail committee has done which is a committee of three committees; and to the extent those differences result only from differences in views, would probably take me into the realm of conjecture and imagination, although I think it is safe to assume that they must have differed in view, or else they would not have published ratings different in the three territories, inasmuch as they are the three committees that have jurisdiction.

Q. Then we would have, if we followed your plan, four committees to consider the classification or the separate classifications, the motor committee and the three railroad committees; or if we have one railroad committee, then we would have two separate committees, would we not?

A. Yes. Of course, I could not attempt to say what the rail committees would be or should be.

Q. Now, bearing in mind that this proceeding has to do only with the rail classification, would you think that this Commission should provide that whenever a change is sought in the rail classification, it should not be permitted unless a similar change is made or unless agreed to by the motor classification committee?

A. I do not know as the Commission has been doing that in the past. I do not know that there is any proposal to make any change in that regard for the future.

[fol. 2838] Chairman Aitchison: I would like to have that answer read. The first part is very important.

(Answer read.)

The Witness: May the question be read?

Chairman Aitchison: That answer is ambiguous.

The Witness: I think so too.

Chairman Aitchison: The witness is testifying that he does not know as the Commission has been doing that in the past.

The Witness: I did not state my answer very clearly, Mr. Chairman.

Mr. McCollester: May we have the question read, Mr. Chairman?

Chairman Aitchison: Yes. Read the question, please, Mr. Reporter.

(Question read.)

Chairman Aitchison: You did not mean to testify that has been the practice of the Commission, did you?

The Witness: No. I tried to say that I did not think it was the practice of the Commission in the past. That was the intent of my answer. Perhaps I did not state it very clearly. I do not think the Commission has required either classification committee to follow the other, necessarily. I do not understand that they necessarily will intend to rigidly fix every rating in the classification, the rail [fol. 2839] classification in this proceeding. We are taking the position that generally there should be parity. There should be similarity, the same level of ratings in the classification as between rail and truck. How that can be accomplished I believe I would leave to the Commission. If they intend to prescribe a rigid classification for the rail and only to have changes made by Commission approval, our position being for equality, would make it follow that they would probably have to require changes to be made in the truck classification.

Mr. McCollester: That brings me to the real point I was getting at, and that is this:

By Mr. McCollester:

Q. In view of your advocacy of uniformity of classification as between the railroads and the motor carriers, even assuming that that were achieved to start with, have you

any suggestion to the Commission or to the people here as to how it could be maintained in the future so long as you have different classification committees?

A. I cannot but believe that if the Commission issues an order in this case and prescribes classification principles, and in so doing indicates its views with regard to equality, or the comparative levels that should be maintained, that there would be much difficulty in keeping them on an even keel. I would add that the practices that have been followed from the start of our publication of the National Classification should go a long way in showing that there is not [fol. 2840] anything to fear along the line of what I believe to be underlying your question. Therefore there would be uniformity. We have published hundreds of ratings over the six years that have shown uniformity with only minor differences such as I have brought out here. I think that would continue.

Q. To your mind, the experience of the many years with the three railroad classification committees and the resulting differences in the three railroad classifications does not indicate that there will be any difficulty in maintaining uniformity as between the railroads and the trucks?

A. I am sure, sir, there will be no difficulty in maintaining uniformity between the two modes.

Q. Does that mean that you can assure the Commission and the parties that the trucks will follow whatever is done in the case of the railroad classification?

A. I do not know as I could go all the way on that one. That is taking in a lot of territory. It depends on what happens here. Our proposal for territorial uniformity and for uniformity in the future conceives, of course, some foundation and some possible change from what there has been in the past as will be brought forth by the next witness.

Mr. McCollester: That is all I have.

By Chairman Aitchison:

Q. In your discussion with Mr. McCollester, were you referring particularly to less than truckload?

[fol. 2841] A. I did not have that distinction in mind. So far as classification ratings are concerned, we have been the same except as to some of the extremely lower ratings. As to the future, again, if I can, I should like to defer that for the next witness.

Q. You have no rating here that is shown less than 27½ per cent of first class, have you, on sheet 5?

A. No, sir. I believe that is the lowest. The rails have some lower, as shown by the next page, I believe it is, of the exhibit, which we bring up to 27½.

Q. They go down to 17½.

A. Yes. They go down to class 12 in the South and E in the West.

Q. In the classification I think there are some percentages lower than 17½.

A. That is quite possible, sir.

Q. Now, what does that mean? It means that the motors are not transporting that business; or that you are transporting it in smaller quantities and consequently have a higher rating; or it is covered by special tariffs.

A. Some of each.

Q. Some of each?

A. Some of each, sir, if that is not too brief. I will be glad to amplify it.

Chairman Aitchison: That is enough.

[fol. 2842] By Chairman Aitchison:

Q. If you do not have any classification lower than 27½ you are going to have trouble, are you not, in matching class E in the Western Classification?

A. Yes, and we have had much discussion about that in these past six years.

Q. Class D also?

A. Anything lower than class 5. Class A is higher than 5 in the West.

Q. Sometimes.

A. Sometimes, depending upon the territory. That is right. For instance, take California: California is one of the few states where the National Classification is not used intrastate, and one of the real reasons given in the past is the fact that we do not go down to class E and that they do have some articles, some clay products and a few articles in that category that move in truckloads comparatively short distances. They have generally said they could take care of it by commodity rates.

Q. Cement is class E, is it not?

A. I believe so, yes.

Q. Where do you have cement in your classification?

A. We have that fifth class, volume ratings. That is at present, not speaking for the future.

Q. With respect to the California classification, the California Commission prescribed a classification of its own, [fol. 2843] did it not?

A. No. They have prescribed for truck use the rail classification, intrastate. The National Classification is used interstate from California to all surrounding territory, but the California Commission has never changed, and that little problem of volume ratings was one of the reasons, I believe, why they have not changed, because of the difference. They have in California the right of the other mode of transportation to meet the rates and ratings of the competitors. In other words, the motor carriers can meet the rail lower ratings.

Chairman Aitchison: Is there any further cross-examination? (No response.) Have you anything further, Mr. Rives?

Mr. Rives: One question.

Redirect examination.

By Mr. Rives:

Q. Mr. Jackson, when was your exhibit and testimony distributed to the parties designated to receive such at the Indianapolis hearing?

A. The copies for the parties entitled to receive them, as set up by the Commission, being a total of 217 copies in the respective groups, were shipped from our office under my supervision. I personally checked the labels. They were shipped November 3rd and 4th. There was a little split in the days because of our lack of ability to handle them. They were mailed November 3rd and November 4th. I [fol. 2844] am speaking about mine now. As to the ones to follow, Mr. Waring, and also those of Mr. Dowd——

Mr. Wagner: I have been endeavoring not to bring it into the hearing, but I have been after Mr. Reed for one copy. I just now received one copy. I did not receive the 18 copies.

The Witness: I assure you, sir, they were started on their way. We will be glad to duplicate them. We will check that up.

Mr. Rives: Mr. Chairman, we just wanted the record to show when we mailed them.

Chairman Aitchison: Are there any other questions of this witness? (No response.) If not, you are excused.

(Witness excused.)

Chairman Aitchison: We will suspend until 2 o'clock.

(At 12:30 o'clock P. M. recess taken to 2 o'clock P. M.)

[fol. 2845] Afternoon Session

The hearing was resumed pursuant to recess.

2 o'clock P.M.

Chairman Aitchison: Shall we proceed.

Mr. Reed: Call Mr. Waring.

DABNEY T. WARING was sworn and testified as follows:

Direct examination.

By Mr. Reed:

Q. You may state your name.

A. Dabney T. Waring.

Q. What is your present occupation?

A. I am General Manager of the Middle Atlantic States Motor Carriers Conference, Inc., and Chairman of its General Rate Committee.

Q. How long have you occupied that position?

A. Since January 1, 1936.

Q. In what business were you engaged prior to that time?

A. From 1928 to 1936 I was Traffic Consultant with offices in New York, N. Y. In this work I served as salaried traffic manager for smaller industries and actively engaged in the handling of cases before the Interstate Commerce Commission.

Q. While engaged in that work what type of industries did you serve and in what territories were they located?

A. I served shippers having plants in the East, the South and Southwest engaged in the production and consumption

[fol. 2846] of a wide variety of commodities. I participated in a large number of I.C.C. cases which involved rates on many commodities including coal, clay, hides, extracts, gums and many chemicals.

Q. In what business were you engaged prior to the time you entered the Traffic Consultant work?

A. I was for about eleven years Assistant Traffic Manager of the United States Leather Company and its subsidiaries. Among its subsidiaries were two railroads which I served in an executive capacity.

Q. Did you have any traffic and transportation experience other than that which you have just described?

A. Prior to entering the service of the United States Leather Company I had been employed for several years in general freight departments of the Southern Railway and several other railroads as well as the Old Dominion Steamship Company, a coastwise steamship line.

Q. In your various traffic and transportation positions, which you have just described, did you at any time have contact with the construction of railroad classification ratings or contact with the actual fixation of classification ratings for any commodities moving in commerce at that time?

A. During my employment by the several transportation lines I was constantly connected with the activities of those lines having to do with their interests in the classification of [fol. 2847] freight. While employed by the United States Leather Company and later in my work as a Traffic Consultant I was continually dealing with the classification of innumerable commodities. I participated in several classification cases before the Commission.

Q. Are you familiar with the factors which should govern in the establishment of classification ratings for commodities generally?

A. I think I am.

Q. For whom are you speaking in this proceeding?

A. The American Trucking Associations, Inc., and its affiliated Motor Common Carriers and Rate and Tariff Bureaus.

Q. What is the interest of the common carrier motor truck industry in this proceeding?

A. The interest of the motor common carriers in this investigation is two-fold. First: They are concerned with the

likelihood that basic classification principles will be decided which will have a direct bearing upon both motor carriers and rail carriers. Second: They are concerned with the level of the rates which might result from the establishment of such classification principles. Of course, we are also interested in the level of the rail carrier class rates. The trucks and rails are directly competitive and the measure of our competition is determined by the classification, classification exceptions, commodity rates and class rate scales. [fol. 2848] We are at all times concerned with any change in any one of these important factors bearing upon our competitive efforts.

Q. Is there a special committee composed of the common carrier members of the American Trucking Associations appointed for the purpose of considering and acting on all matters relating to both rail and motor truck proceedings before the Interstate Commerce Commission?

A. Yes.

Q. Please state the number of members composing this committee and what action it has taken with respect to the matter of uniform classification?

A. This committee is composed of 29 members appointed by the Chairman of the National Traffic Committee; in fact, it is a subcommittee of the National Traffic Committee. All sections of the country are represented on it. It has considered the matter of a uniform classification and it is the unanimous view of the members of this committee that so far as package freight is concerned there should be a nationwide uniform classification for railroads and motor common carriers. By "package freight" is meant the types of freight which are competitive as between rails and trucks and these types of freight include rail traffic which ordinarily moves in box cars.

In connection with this over-all committee there is a subcommittee on classification which has devoted a great deal [fol. 2849] of time to the development of classification principles and has conducted various investigations for the purpose of establishing the facts concerning uniform classification ratings for both rails and trucks. I am Chairman of this subcommittee.

Chairman Aitchison: Right there, there is a question that I should have asked of Mr. Jackson, but which this witness can doubtless answer.

By Chairman Aitchison:

Q. Suppose a classification rating is agreed upon by the Motor Classification Committee—I have forgotten the exact title of it. Does it then need any approval by any other body, or does it become automatic with the filing of tariffs?

A. Are you referring now, Mr. Chairman, to the future, or to the past?

Q. Referring to the past.

A. Well, that really is a question——

Q. And to the present also.

A. I was going to say, Mr. Chairman, that really is a question for Mr. Jackson to answer, but I believe I can answer it; I am a member of the National Classification Committee. The approval of any rating by the National Traffic Committee or the Classification Board of the American Trucking Associations, does not necessarily mean approval by the railroads, or any other group.

[fol. 2850] Q. You mean, by the motor carriers, do you not?

A. Pardon me, Mr. Chairman. I am afraid, now, that I have misunderstood your question.

Q. Well, I am talking about your own classification.

A. Yes.

Q. When your Committee acts on a proposition of that sort, does it then have to submit the matter to the National Traffic Committee, or some subcommittee, or does it submit it to the member carriers for approval, or does it just go ahead and file a supplement, or what?

A. The National Classification Board has blanket authority to make changes as the railroads make them, except that when they are doubtful about something, they use their discretion in referring the matter to the National Traffic Committee; and there have been instances where they have not made changes up or down, with the railroads, after referring the matter to the National Traffic Committee.

Q. Well, who appoints the National Traffic Committee?

A. The National Traffic Committee, Mr. Chairman, is appointed by the president of the American Trucking Associations, based upon nominations or recommendations by state associations, and to some extent possibly by the tariff bureaus.

Q. Well then, that committee does not need any authorization specifically to make a change which corresponds to a change in the rail classification, does it?

[fol. 2851] A. No, sir, they do not, because, as I stated before, they have from the National Traffic Committee the blanket authority to do that.

Q. Well now, supposing you do not want to make a change; a proposal has been docketed, and considered, and it is decided that the change will not be made. Do you have to submit that to anyone?

A. Do you mean, now, a proposal on the docket of the National Classification Committee——

Q. Yes.

A. —or the Board?

Q. Yes.

A. The Board has authority to make the change, but before doing so it gets the recommendations of most of the bureaus, as I understand it. This is something, I should say, Mr. Chairman, that Mr. Jackson is better qualified to answer than I am.

Q. Are you not a member of the National Classification Committee? That is what I understood you to say a moment ago.

A. No, Mr. Chairman,—I am a member of the National Traffic Committee, but not of the Classification Board.

Q. Not of the Classification Board?

A. No.

Chairman Aitchison: All right. I think you have answered sufficiently.

[fol. 2852] Mr. Reed: If your Honor please, would you like to address any question to Mr. Jackson at this time?

Chairman Aitchison: No. Mr. Waring's answers will suffice, for the present.

The Witness: May I say, I think if my answers to your questions up to this time have not been correct in any respect, Mr. Jackson would ask for the privilege of correcting me.

Chairman Aitchison: Continue.

A. As a result of these studies and experiments, we have developed basic classification principles which we believe should be observed for the purpose of inaugurating a nation-

wide uniform classification for both rails and trucks. It is the view of the Classification Committee,—and the Classification Committee that I am referring to now is the subcommittee of the full committee, dealing with this investigation——

By Mr. Reed:

Q. Which you have described in your previous testimony.

A. Yes. —that the basic principles of classification which have been repeatedly approved by the Commission have been and still are sound. The whole committee unanimously concurs in this view.

While the principles which we are presenting for the Commission's consideration here have been repeatedly and [fol. 2853] consistently approved by the Commission they have never been translated into a specific formula nor standardized. The classification in reality has been built up item by item, beginning with the crudest and most elementary classification, devised, as a general rule, by the first built or older railroads and each new item has been considered and classified, generally speaking, in relation to other commodities which were deemed comparable physically or from the standpoint of the recognized classification elements. Changes in the classification have been made in the same manner. This accounts for the inconsistency of so many of the present ratings in both the classification and the classification exceptions. Unless and until some kind of a formula, giving the proper weight to all of the elements, is adopted these inconsistencies, sometimes amounting to gross discrimination, will be perpetuated and accentuated.

Following the decision in the Uniform Classification case, 54 I.C.C., many changes were made which had the effect of removing inconsistencies to the extent required by the Commission's report in that case but still the principles were not reduced to a formula and the classification defects from the standpoint of relationship of commodities based on the recognized classification elements were not in an appreciable measure removed. This proceeding as I understand it, is intended to be more comprehensive. In the case of both [fol. 2854] ratings established by the Classification Committee and ratings prescribed by the Commission there have been inconsistencies which we attribute to the absence of any definite formula and to the presence of long established ratings, dating almost from the very beginning of freight

classification, which have been and still are violative of these principles. It is our view, however, that the principal defects have resulted from the failure to give full recognition to the density factor. In many instances the class rates applicable on extremely light and bulky articles are unprofitable and are necessarily casting an undue burden on freight which may be more economically handled. We appreciate the importance of a rate structure which will enable our commerce to move freely but when light and bulky traffic is handled at unprofitable rates it amounts to a subsidy for that freight at the expense of other traffic.

The Committee believes that the time has now come to not only rectify the condition which has been brought about by the competitive struggle between the rails and trucks during the past 10 or 12 years but to remove by the adoption of the Commission-approved classification principles, the inconsistencies which have always existed.

Q. Am I to understand that what you have just said has reference only to the classification, or does it relate to both the classification and classification exceptions?

[fol. 2855] A. Probably I should have made this clear. I have had reference to both the classification and classification exceptions. As a matter of fact it has been through the publication of exceptions that the classification principles have to the greatest extent been destroyed. There was a time, some years ago, when a classification exception was just what the name implied but now the term is a misnomer because, with few exceptions, they apply generally throughout a territory and serve to completely nullify or cancel the classification rating. As an example, the less than truckload rating on Flavoring Syrup in Official territory is Class 52, which is found in the exceptions tariff. The classification rating on Class 70 has no application anywhere and is merely a paper rating.

These ratings, called exceptions, have been published in exceptions tariffs for one of two reasons, namely, either because their presence in the classification has been objected to by the Classification Committees in other territories on the ground that their ratings would be jeopardized or because of alleged truck competition and it was thought that eventually they could be cancelled which could be more easily accomplished if published in the exceptions tariff. Most of them were established as a result of strong shipper pressure, accompanied in many cases by misrepresentations

as to the extent or potency of truck competition. So far as [fol. 2856] those established to meet truck competition are concerned they have utterly failed to serve their purpose because where necessary to do so in order to retain a share of the business they have been met. Of course, the motor carriers have not themselves been free of guilt in cutting the rail ratings. In both cases the result has been the same, that is, the other agency has generally met them and the competitive rate parity has continued but at a lower level of rates and a heavier and undue transportation burden cast upon other traffic. As we view it, a classification exception having general territorial application is inherently improper, has no justification and should not be permitted by the Commission. When they are established the transportation burden is unfairly distributed.

Chairman Aitchison: Well now, that gets right down to something that is very fundamental, as to which you may have a view. I was brought up, I might say, as a matter of elementary transportation economics, to regard a commodity rate as the normal rate on carload traffic, and the classification as intended only to take care of situations which were not important enough to warrant a commodity rate.

Mr. McCollester: You were not brought up in Official territory, Mr. Chairman.

The Witness: I was just going to give the Chairman that same answer, Mr. McCollester. Thank you. In Official territory, Mr. Chairman, we have not taken that view at all. [fol. 2857] Chairman Aitchison: Take lumber, for instance, and you will find that in the classification, but even in Official territory you have commodity rates on it, have you not—and when I refer to the classification, I mean, the railroad classification.

The Witness: Lumber?

Chairman Aitchison: Yes.

The Witness: No. Lumber moves on the sixth class rates, according to my understanding, in Official territory generally.

By Chairman Aitchison:

Q. Do you not have a lot of commodity rates there?

A. There may be a few.

Q. The through rates from the South and from the Pacific Coast are commodity rates, are they not?

A. Oh, it moves on commodity rates, very definitely, there.

Mr. Reed: If the Chairman please, I do not mean to interfere with your Honor's questioning of the witness, but I believe that the witness will cover very shortly the very point that you are raising there.

Chairman Aitchison: I see.

The Witness: I was just going to say, Mr. Chairman, I do make reference later on in my testimony to low-grade commodities.

Chairman Aitchison: All right. However, let us pursue [fol. 2858] it a little further. Getting back again to my elementary days——

The Witness: May I say, please—if you will pardon me, Mr. Chairman—I am referring particularly to less than carload freight in this particular part of my testimony.

Chairman Aitchison: I see. At that time we had not alone class rates and commodity rates, but we also had a type of rate that was designated as a special commodity rate.

The Witness: Yes.

Chairman Aitchison: Those rates were very common, throughout the West. Does that mean anything to you?

The Witness: A special commodity rate?

Chairman Aitchison: Yes.

The Witness: Well, I think that the Commission's tariff section would probably outlaw anything that was called a special commodity rate, these days.

By Chairman Aitchison:

Q. Well, aside from that, does that mean anything to you?

A. Why, it would just be a commodity rate.

Q. The word "special" does not mean anything to you?

A. It doesn't mean a thing in the world, no, sir, and I don't think it ever did mean anything, except for some purpose that the railroads had in emphasizing it as something "special."

Q. The commodity rates were generally those that applied on the system lines, while the special commodity rates [fol. 2859] were applicable from point to point, within a territory.

A. Well, we have referred to those as specific commodity rates. I misunderstood the term that you used.

Mr. Reed: We have a lot of those.

Chairman Aitchison: All right.

By Mr. Reed:

Q. Continue.

A. While we have not been able to make a satisfactory traffic survey to determine the answer, I am reasonably certain that a great deal more less than carload and less than truckload tonnage is moving under classification exceptions than under the classification proper. To merely deal with the classification itself would not reach and remedy the evils growing out of the intense competitive struggle by the railroads and trucks during the past 10 or 15 years.

It should be understood that wherever I refer to classification it includes classification exceptions.

Q. What action did the committee take with respect to the facts which you have just described?

A. The committee spent many days analyzing a motor truck and railroad traffic survey. We analyzed the volume of commodities moving by trucks and particularly studied the density per cubic foot and value per pound of such traffic. The motor truck traffic survey which we made will be introduced into this record by another witness. It is my purpose here to explain the formula which we have devel- [fol. 2860] oped for the purpose of bringing the classification into conformity with the basic principles heretofore recognized by the Commission. That formula has been set forth in my Exhibit 145, pages 2 and 3 and is based upon a combination of value and density, modified by other factors to be explained later.

Mr. Reed: May we have the exhibit identified, your Honor, as Exhibit 145.

(Exhibit 145, Witness Waring, marked for identification.)

By Mr. Reed:

Q. Mr. Waring, did you prepare Exhibit 145 for identification?

A. In part the exhibit was prepared by me personally, and in part under my immediate supervision.

Q. Is the exhibit true and correct, to the best of your knowledge and belief?

A. Yes, sir.

Q. Please proceed with your statement.

A. Dealing with the element of value we began by using as a base articles valued up to 5 cents per pound. The percentage increases over the "base" were established after the committee had made many experiments with many of the more important moving commodities. While we believe that these fundamental principles of classification should be followed in order to fairly distribute the transportation burden we recognize that there are valid objections to radical changes. In order to meet such objections we en- [fol. 2861] deavored to make the progression of increase based on the value element conform to the weight which has been given to it in the past by the Commission, disregarding the confusion which has grown out of the intense competition between the different transportation agencies.

Dealing with the density factor our base weight is 22½ pounds per cubic foot. We have found it to be the optimum density in handling freight from the standpoint of transportation costs. By this it is meant that freight having a density of more than 22½ pounds per cubic foot has little or no advantage over 22½ pounds density freight from the standpoint of transportation economy. This has reference only to the package freight which I have previously described, and it does not refer to bulk rail freight such as coal, ore, sand and gravel.

We are of the opinion that no uniform classification can ever be established for such bulk commodities.

Chairman Aitchison: You can leave the word "uniform" out, there, can you not?

Mr. Reed: Yes.

The Witness: Yes, sir.

Chairman Aitchison: Getting back to what we were talking about, if you had such commodities as fine blacksmith's coal, or silver ore, to be transported, they would move under the classification.

The Witness: I am very sorry, Mr. Chairman, but I did [fol. 2862] not get that.

Chairman Aitchison: I say, it gets right back to what I stated before. It was our understanding out West that the commodity rates moved the great bulk of the traffic, and

it was only the unusual thing that took the classification, such as your blacksmith's coal, or your silver ore, and so forth.

The Witness: Well, Mr. Chairman, we are trying here to distinguish, of course, between the kind of freight which is competitive, as between the rails and the trucks, and the type of freight which we think moves predominantly by rail; and we are leaving that latter for treatment by our rail friends.

Chairman Aitchison: Having gotten behind a few coal trucks on the National Highway, I was under the impression that some of it, at least, is moving by truck. (Laughter.)

The Witness: Well, our committee is not concerning itself at the present time with the coal rates, Mr. Chairman.

Chairman Aitchison: Well, does that mean that your committee is not interested in all of the traffic, or just what is the implication?

The Witness: Our committee is not very much interested in coal, ore, sand, and gravel, and freight of that kind, moving principally in open-top equipment.

Chairman Aitchison: All right.

A. The elements of classification have very little weight [fol. 2863] in the basic conditions that establish rates for these commodities. Supply, demand and market competition in addition to cost are the controlling factors which must be considered. The publication of a classification rating on such commodities, with wide territorial application, would serve no useful purpose.

Using 22½ pounds per cubic foot as a base, for commodities which are subject to uniform classification factors, we have suggested five other density classifications, namely, 17½ pounds, 12½ pounds, 7½ pounds, 5 pounds, and 2½ pounds. With the element of value of service in mind as well as the fact that there is a slight, but very slight, saving in handling light freight occupying a given amount of space as compared with heavier freight, we have made progressive increases over the base rate for the five classifications of low density freight. These percentages for low density freight will not yield as much revenue for the same amount of space as will be produced by the heavier freight weighing 22½ pounds, or more per cubic foot. To do this it would, in our opinion, make the rates prohibitive in some instances on the light density freight. For in-

stance, 22½ pounds of 22½ pounds density freight would occupy one cubic foot space. To get the same amount of revenue per cubic foot therefor the rate for 2½ cubic feet freight would have to be nine times the rate for freight of [fol. 2864] 22½ pounds density. We propose therefore that the rating for 2½ pounds density freight be only six times the rating for 22½ pounds density freight.

By Com. Splawn:

Q. Let me ask you right there: Why does it follow that it should be six times instead of nine times?

A. Well, Mr. Commissioner, we are willing, so far as the trucks are concerned, in the public interest, considering the ability of the commodities to pay the rates, to take the freight for six times the price per cubic foot—or rather, I mean to say, the price per pound, on the heavier freight. In other words, we are willing to shrink our revenue one-third, shrink the revenue per cubic foot one-third.

Q. And the test is, what the traffic will bear?

A. That is the prime consideration,—yes, sir. Another consideration, as I have stated, is the fact that it does not cost as much to haul 4,000 pounds in a truck—or rather, let me change that to 3,000 pounds, as it does to haul 27,000 pounds, because you do not have to have as heavy equipment, or as heavy tires, or use as much gasoline, or have as much wear and tear on the smaller quantity.

Q. But if you are going to the point of what the traffic will bear, what difference does it make what it costs, whether it costs a little more, or a little less?

A. Well, take for example corrugated packing boxes. That is a good illustration. We think the rates are too low, [fol. 2865] but we do not think that corrugated packing boxes could possibly bear a transportation charge which would yield as much per cubic foot — we — heavy-density freight. In other words, you would reduce the length of the transportation haul, and the area in which a factory could make distribution, to a point where you would reduce competition between the different manufacturers.

Q. If I understand your formula correctly, you take your density as your general guide, and then you make your refinements according to what the traffic will bear, and then, in making other refinements, you consider the difference in cost. Is that correct?

A. Well now, you use the term—or the language "what the traffic will bear", Mr. Commissioner. I would prefer to say: value of service.

Q. Very well,—value of service, then.

A. Yes.

Q. We will let you designate your own phrase.

A. Yes.

Q. I am just merely trying to correctly understand your formula, is all.

A. Well, you have it about right, I should say.

Com. Splawn: Very well. Proceed.

Mr. Reed: Was your Honor through?

Com. Splawn: Yes.

[fol. 2866] By Mr. Reed:

Q. Continue, please, Mr. Waring.

A. Like modifications are made in the ratio of higher valued freight in the consideration that we have given to value. The exhibit contains an illustration of the density principles, which we are proposing, applied to the base rates for the value factor. The formula on percentage increases over the base rate for both the value and density factors necessarily produces a great many classes of percentage relationships. We propose to convert these by groups into a limited number of classes. These are shown in Part 1, page 2 of Exhibit 145 under Section 2. This is a substantial improvement and simplification over the present conglomerated mass of classes and columns based on a percentage relationship to first class as will be presently found in our class rates, classifications, classification exceptions and commodity rates in all territories.

By Chairman Aitchison:

Q. You have 15 numbered classes, and 8 lettered classes; is that right?

A. The lettered classes, Mr. Chairman, are all above 100 per cent, and will not move very much traffic; the extremely light and bulky freight, is all, corresponding to the articles which are now subject to all multiples of first class.

Mr. Reed: May we proceed, your Honors?

By Com. Alldredge:

Q. Just a moment, please. What percentage of variation do the numbered classes represent, on the average?

[fol. 2867] Mr. Reed: 5 per cent.

A. I am coming to that in detail in just a moment, Mr. Commissioner. I will cover that in detail very shortly.

Mr. Reed: It is 5 per cent.

Com. Alldredge: Very well.

A. I recently checked the great variety of percentages of first class on which commodities are moving in the various territories. Pages 4 to 9 of Exhibit 145 contain a statement of these percentages taken from four typical rail tariffs representing all of the major classification territories. As will be seen by these pages there are in these tariffs, which I have studied, 102 percentage columns in the class rate scales applying in Official territory, 130 percentage columns in Southern territory, 89 percentage columns in Western Trunk Line territory and 85 percentage columns in Southwestern territory.

Chairman Aitchison: You were not diligent enough. If you had gone a little further, you could have gotten more in some of the territories.

The Witness: I probably could have, yes, Mr. Chairman, but these are all below 100 per cent. We still have multiples of first class above 100 per cent.

By Chairman Aitchison:

Q. Referring to this long list of percentages that you have there, you did not happen to check as to whether [fol. 2868] all of those are carload or less than carload, did you?

A. These are less than carload ratings.

Q. Louder, please.

A. I say, these are less than carload ratings, Mr. Chairman, that we are proposing here.

Q. From page 4 on?

A. Oh, I beg your pardon, sir. No, Mr. Chairman, we have not attempted to distinguish there between carload and less than carload. However, we do know that in many instances the same class would apply on both carload and less than carload.

Q. Well, I suppose, if we were to check back as against the tariff, we could find out how many less than carload classes you have; is that correct?

A. Yes, sir, that is correct. We could find it in the same way that Mr. Jackson, the previous witness, found it. It is just a matter of checking the ratings in the exceptions, and the classification.

Q. Your work sheets would not show that, would they?

A. My work sheets?

Q. Yes.

A. No, sir, they would not. We just checked the rate tables. We did not go to the classification at all. We simply took the rate tables that we found in the tariffs, and found these columns.

[fol. 2869] Q. Well, that is a little different. Are all of those columns used?

A. I am reasonably certain, Mr. Chairman, that every one of them is used, yes, sir. That is, whether there is any movement or not, I cannot say positively——

Q. That is what I mean.

A. —but I am reasonably certain, based on my knowledge of the traffic, that there is something moving on every column that is shown in there. I think that we can safely assume that, for the purpose of consideration here.

By Mr. Reed:

Q. Continue.

A. The formula which we present reduces this to 15 classes up to 100 per cent which, for simplification, we are calling first class. We are using lettered classes for ratings higher than first class or higher than 100 per cent. The ratings, beginning with 50 per cent or Class 15 are progressed at the rate of 5 per cent up to 100 or first class. Above first class the spreads between the classes are wider but they are nowhere near as wide as they are today in the case of multiples of first class.

Although our proposal would reduce materially the number of classes or columns which are actually in use today, even 15 less than carload classes, not counting those above first class or 100 per cent, are more than are generally considered necessary. We believe that there should [fol. 2870] be at least this number, resulting in a spread of only 5 per cent between each class because if the spreads

are wider as has been the case in the past so far as the major classes are concerned, errors of judgment in the determination or prescription of ratings would be of a serious nature. For instance, if we should continue in Official territory 70 per cent for third class and 55 per cent for the next class, now Rule 26, it would really be a serious matter if through error of judgment or based on erroneous information an article is given third class when its classification elements entitle it to 55 per cent of first class.

By Mr. Reed:

Q. Is that not one of the basic reasons why you have less than carload classification exceptions, because of the wide variation in the percentage relationship?

A. Decidedly so, yes, sir; and also carload as well. For example, there has been 40 per cent prescribed carload. The major classes jump from 50 per cent in Official territory down to 35 per cent; fourth class to fifth class.

Q. Proceed.

A. The responsibility of deciding whether or not an article should take 55 per cent of first class or 70 per cent of first class would indeed be a heavy one. The inevitable result would be the prescription of intermediate percentage columns as has actually happened in the recent past. Our suggestion that the measure of the ratings be graduated on [fol. 2871] basis of adding 5 per cent for the next higher class in all cases up to Class 1 or 100 is predicated on the obvious desirability of having a uniform spread percentage-wise between the classes. There has been a tendency on the part of every one, including the Commission, to use even percentages rather than odd figures because of an assumed advantage in dealing with even percentages. We do not think that there is any advantage in this because the classification does not, or certainly should not, express ratings in terms of percentages. The actual rates in the rate tables are computed and set in and so far as the user of tariffs is concerned the percentage represented by the rating is not used nor necessarily known. Therefore the fixing of ratings based on uneven percentages is no handicap either in publishing or using the tariff. Once the rate tables are developed based on the percentage formula the only use that can be made of the percentages is in the study or consideration of the reasonableness of ratings. For all of these

reasons the objection to odd percentages is only a fancied one without real foundation.

Illustrating how our conversion table, shown page 2, part 1 of Exhibit 145 operates to reduce the odd percentage columns in the class rate structure and how our formula based on density and value will simplify the rate structure, we call attention to its operation by selecting a commodity weighing 12½ pounds per cubic foot and valued at 10 cents [fol. 2872] per pound. Such commodity would under the density-value formula Section 1 of Part 1, Page 2 of Exhibit 145, be entitled to a rating of 92 per cent. Under the conversion table, Section 2, this would be converted to 90 per cent or Column 90 rating. This rating would be the same as that applicable to an article weighing 22½ pounds per cubic foot but having a value of between $1.00 to $2.00 per pound. The class which would result from the conversion table at the bottom of the page, would be class 3.

Q. Now, Mr. Waring, on page 3, Exhibit 145, Section 3, you show $66.25.

A. Yes.

Q. Is that correct?

A. No, sir.

Q. What ought that to be?

A. $6.25.

Q. I thought that was an error.

A. Yes, sir. I thought it had been corrected, but I see it has not.

Chairman Aitchison: Where is that?

Mr. Reed: Page 3, Part 1, Section 3, of Exhibit 145.

The Witness: Near the top of the page.

Mr. Reed: As it reads now, the amount shown is $66.25, and that should be corrected to read $6.25.

The Witness: Under the column headed "Freight [fol. 2873] Charges", the second item numerically, in that column.

By Chairman Aitchison:

Q. Well now that you have gotten this hypothetical commodity into the 90 per cent class, do you then apply your utility factor?

A. Yes, sir, the utility factor would be applied, as well as the other elements, to section 5.

Mr. Reed: In the next question and answer, if the Chairman please, we take that up.

Chairman Aitchison: All right.

By Mr. Reed:

Q. Did the committee consider any other factors as being relevant to the uniform classification of commodities other than value and density?

A. Yes. We were of the opinion that the value-density bases should be further modified or adjusted because of such elements as utility, fragility, susceptibility to theft, contamination of other freight, etc. The formula which we have prepared and the exhibit which I have submitted gives full weight and recognition to the utility groupings. The utility groupings are set forth in Part 1, Section 4, page 3 of Exhibit 145 in the middle of the page. The extent to which the utility basis would modify the value density formula is shown in that section of the exhibit. For instance, if a commodity is a basic raw material weighing 20 pounds per cubic foot and valued at 25 cents per pound, Section 1 would establish a rating of 65½ per cent and [fol. 2874] the conversion table would convert this to 64 per cent and Class 10. Because it is a basic raw material, the 64 per cent would be reduced 15 per cent making it 54 per cent. This would be converted to 55 per cent or Class 13. In a like manner a commodity that is in the luxury group would be increased by 15 per cent.

By Chairman Aitchison:

Q. Do you mind my asking right here, with respect to how you treat a couple of commodities?

A. No, sir.

Q. Take grain and grain products.

A. Grain and grain products would be a non-processed farm product.

By Mr. McCollester:

Q. Mr. Waring, would grain products be non-processed?

A. Well, not grain products, no.

By Chairman Aitchison:

Q. It would take 90 per cent, then, would it not?

A. If it were processed, it would be 90 per cent, yes, sir.

Q. And grain would be 85 per cent?

A. Yes, sir.

Q. All right. Now let me ask you about Cream of Wheat, and middlings; what would you do with that?

A. Cream of Wheat and middlings?

Q. Yes.

A. Why, I would put both of them in the processed farm products classification.

[fol. 2875] Q. The same?

A. Pardon me?

Q. Would you make them the same?

A. Well, they would take a different rating, possibly, because of the value. The value element would make a difference. The Cream of Wheat would take a higher rating, because it has a higher value.

Q. Well, Cream of Wheat is nothing but cooked middlings, is it not?

A. Cooked middlings?

Q. Yes.

A. Well, that may be true, Mr. Chairman, but it still is sold as a breakfast food, and they charge a plenty high price for it.

Mr. Reed: That is not what they tell me, Mr. Chairman, when I order it for breakfast.

Chairman Aitchison: Come down to Washington and I will show you testimony to that effect. There have been commodities of that nature before the Commission. Now, some of these products are identical, except that one is suitable for human consumption, and the other is not. Would you differentiate between those?

The Witness: I am assuming, Mr. Chairman, that the value element would bring about the proper relationship.

By Chairman Aitchison:

Q. Well now, would the value element also reflect whether [fol. 2876] or not the particular item was processed, or a raw farm product?

A. Not necessarily, no, sir.

Q. In other words, flour is worth more per pound than grain is, is it not?

A. Well, I was going to say——

Q. That is, per cubic foot?

A. We throw everything above 22.5 per cubic foot into one density classification.

Q. I am just wondering whether or not you have got the manufacturing process taken care of twice; once, by giving consideration to the value in cents per pound; and then by your utility factor, in determining whether it is a raw material, or has been processed.

A. Well, we give it both, Mr. Chairman; if it is a raw material, we give it the benefit both of its low value, and its utility.

Q. And, per contra, if it has some value, it is taken care of twice, is it not? First, by giving consideration to the value in cents per pound, and secondly, because it has been given added value by the processing.

A. Oh, if it has some value, Mr. Chairman, and it is in the less than carload group, it is hit twice, yes, sir—if I understand your question correctly.

Q. I am not talking about that. I am talking about your 85 per cent-90 per cent group.

[fol. 2877] A. All right. If it is of high value, we put it where it belongs, and then we pull it down, because of its utility, or character.

By Mr. Reed:

Q. Well now, just a moment, please, Mr. Waring. You do not hit it twice, as you say, do you? You bring it down.

A. Well, what I mean is——

Q. In other words, you do not increase it, but you bring it down because of the utility factor.

A. What I meant to say was this, that we place it where it belongs, according to the value element.

By Chairman Aitchison:

Q. You widen the differential between the raw material, and the finished product, do you?

A. Yes, sir; we widen it, in the difference in value, and we throw off 5 per cent, because we take 15 per cent off of the crude commodity, and only 10 per cent off of the processed commodity.

Q. Well now, suppose that inflation comes along. What then will you do with your value element?

Mr. Reed: Pardon me, your Honor; I did not hear that.

The Witness: I could not hear it myself.

By Chairman Aitchison:

Q. I say, supposing inflation comes along, or deflation. What then will you do with your value element?

A. Well now, Mr. Chairman, you are asking me a ques-[fol. 2878] tion there that only a Solomon could answer.

Q. Well, but it is something that Solomons have had to answer during the last few years, using formulae like this. In the height of the inflationary period following the first World War, as our valuation records show, many of your prices went up to 2½ or 3 times the 1914 base price, before the war.

A. Well, we strongly are in hopes, Mr. Chairman, that by the time this case is decided, we will not have any war on our hands. As to whether or not values will return to what we heretofore have deemed normal, we do not know, of course; but I do think that we may reasonably assume that there will be quite a change in the relationship of values. In other words, a commodity which two years ago was worth, let us say, $1 per pound, may two or three years from now only be worth 50 cents per pound. We expect the price of aluminum, just taking that as an illustration, to come down; and the prices of other commodities as well.

Q. Well, what are you going to do then? Are you going to change the classification?

A. Well, I think that is a matter that would have to be given consideration at that time, yes, sir.

Q. If everything else changes?

A. Well, even if everything else changes, you would not have to change the classification, Mr. Chairman. You would just change the formula.

[fol. 2879] Q. You would have to change the formula, or consider it as no longer being applicable.

A. Oh, we would have to change the formula, in the light of the higher level of values, yes, sir.

Q. Well now, of course, things just do not go quite that simply. You are familiar, no doubt, with the series of statements that we get out every year, through our Bureau of Valuation, showing the unit costs during a long series of years.

A. I have seen them, yes.

Q. They keep fluctuating, do they not?

A. Yes, sir.

Q. And there has been a very considerable fluctuation during the life of that bureau, to the extent of as much as, perhaps, 300 per cent, or 400 per cent. Now, how would you compensate for that?

A. Well, the only thing I see in that connection, Mr. Chairman, that could possibly be done, would be to treat that in your levels of rates, treat it in your rate scales. I do not think, however, that the classification should be used for the purpose of obtaining revenue.

Q. I did not ask you that. I am not talking now about getting in more money.

A. Perhaps I misunderstood the question.

Q. I am talking about how the article which, according to our records, is selling on the market for two or three times [fol. 2880] what it sold for a few years before, or perhaps only 40 per cent of what it sold for before, is going to be classified. What value are you going to take? Are you going to change, if values go up or down, or what are you going to do?

A. Why, if there is a general rise in the price level, then I think that the formula would have to be adjusted to reflect the higher price level. However, if there is a great fluctuation in the prices of different commodities, some up and some down, why, then I think that eventually, if not immediately, the classification of individual items will have to be considered and adjusted.

Q. And you would have to do that almost yearly, would you not, if you were going to profit by the experiences since World War No. 1?

A. Well, Mr. Chairman, if we were to be guided by the Commission's own prescription of ratings, based on value, you might say, we ought to be doing that.

Q. But we never have had occasion to use any such formula as this.

A. You have not used such a formula, no, sir, but you have repeatedly, in your decisions in cases involving classification matters, shown long lists of comparisons, value comparisons, which left the impression, at least, that you were prescribing or approving a particular rating because it fell under some particular value category.

[fol. 2881] Q. Well, all that we were attempting to do there was to put an article of a particular value in the same class where like articles of the same value were, regardless of whether that value was great, or small, or whether it was

greater or less than it was before, or after, the particular time.

A. Oh, I appreciate that fact, certainly, Mr. Chairman, but on the other hand, you certainly did leave the impression,—and as a matter of fact, I believe you have even come out and made the statement in so many words—that you were influenced by value; and then you have shown the comparisons.

Q. Well, the classification has never been absolute, as I understand it, but this formula of yours makes it absolute.

A. Yes, sir, that is true. You never have come right out and said in so many words, I will concede, that an article that was worth 50 cents per pound ought to take a certain value. I appreciate that.

Q. In the Western Classification 51 proceeding, which was heard by Commissioner Meyer, did not the rail carriers have a series factor something like this?

A. Well, as I understand it, Mr. Chairman, they had a sort of secret formula which they attempted to use, but it proved to be a rank failure. I think there were a good many reasons for that.

Q. Anyway, the Commission did not approve it.

A. Did they submit that to the Commission? I didn't [fol. 2882] know whether they did or not.

Q. Oh, yes; it was described in the record.

A. Pardon me?

Q. It was described in the record at that time.

A. Well, of course, there was a difference in conditions at that time. The trucking industry was not very strong, back in those days.

Q. Have you explained, now, how you would get your value; whether you would get it as of a particular date, or take an average over an extended period, or how?

A. Well, Mr. Chairman, I will simply have to answer your question this way, that we would get it in the same way that we have heretofore gotten value, in dealing with classification cases. In other words, generally speaking, you have taken all of the evidence that was before you, and you have taken the fair value generally, and usually it was a weighted average value over a period of time.

[fol. 2883] Q. Now, there are different values, some affected by transportation itself, wholesale values, retail values, and so forth. What type of value do you have in mind in this connection?

A. It ought to be the manufacturer's value. That is the value the shippers have always put in.

Q. Now, you may have explained this, and perhaps I did not hear it.

A. I think that is the only fair thing to do, Mr. Commissioner. You cannot possibly give the same article two ratings depending upon whether it is shipped by a jobber or a manufacturer.

Q. I will go one step further with regard to value. Suppose it is a nationwide average.

A. Yes, sir.

By Chairman Aitchison:

Q. Take wool, for instance: where would that value be ascertained, wool in the grease?

A. Well, it has a market price, in Boston, for example.

Q. Which reflects the freight rate, does it not, from Australia and foreign countries.

A. I think I would take the value at the port, the port of entry, and the value in our own wool producing states, and I would get a fair weighted average value.

Q. But that reflects the freight rate by rail or by rail and water to Boston.

[fol. 2884] A. No. I did not say I would get it at Boston. I said, the port of entry. I was assuming most of it would come in through the Pacific Coast ports. I know it does not now.

Q. Let us talk about this wool which comes from the ranges of the west and the mountains. Where is that value going to be determined, at the rail station where the wool first started from, to Boston?

A. I would say so, yes.

Q. But that figure represents the difference between the Boston price and the rail cost, and therefore you are arguing yourself in a circle when you use that as a basis for fixing the classification and the rate which ought to be paid.

A. As to any particular commodity, it is difficult to give you a satisfactory answer, Mr. Chairman.

Q. Somebody has to take these particular problems into consideration.

A. It is difficult to give you a satisfactory answer with a great many facts before me, just the same as it is difficult

for you to decide a case with a lot of facts before you. I think you would have to do just what you have been doing in the past. You would have to consider all of the facts with respect to that particular thing, and just use your best judgment.

Q. Of course, Ohio wool, then, would take a different classification than wool from western Montana or northern [fol. 2885] Idaho.

A. I should say definitely, no.

Q. The price per pound received by the grower at the initial rail station would vary, would it not?

A. The probabilities are, Mr. Chairman, that if you took the price at Boston and then took the price at the shipping point in Montana, both of those prices would fall within the same price range here.

Q. Per pound?

A. Yes, sir. If they did not, then it would be merely a matter of your commission using its best judgment, as it so often has to do.

Q. Now, suppose wool is worth 14 cents per pound: it would — in the 115 per cent class. Suppose wool is worth 16 cents per pound: it would fall in the 125 per cent class. Is that correct?

A. That is correct.

Q. You know that in paying for wool, they pay for it on the basis of scoured value, do they not? They estimate the shrink which comes from the process of scouring?

A. Yes.

Q. Some wool is dirties than other wool. Far western wool has a greater percentage of shrink than this Ohio wool. Therefore, as far as value is concerned, one wool is in one class and the other is in another. Are you going to change [fol. 2886] the classification of the Ohio wool and the western wool, therefore, because one has a greater percentage of shrink than the other?

A. Mr. Chairman, we cannot possibly have it so precise as that. We cannot possibly base it on actual value of a particular type of commodity. We will take, for example, a commodity like candy. It has a value range from probably 8 or 10 cents per pound to—I am speaking of the manufacturer's price now—from less than 10 cents per pound up to probably $1 per pound, even the manufacturer's price. Now, we cannot possibly write into the classification such specific descriptions as would make distinction between

the low price candies and the high price candies. You have to use a weighted average value. I do not know of any way of getting an exact weighted average value. There is much to be left for judgment, much to be left in classifying wool and classifying candy and hundreds of thousands of other commodities. It must be left to judgment. It cannot be made precise. It is impossible. You cannot do it so precisely as that.

Chairman Aitchison: I am suggesting these things in order to draw you out on your theory, and see how it would work out.

The Witness: I understand.

By Chairman Aitchison:

Q. Take your candy, for instance.

[fol. 2887] A. Yes.

Q. If this formula should be published, how long do you suppose it is going to be that the manufacturer of the 8-cent candy is going to stand for being in the same classification as dollar candy?

A. The classification will probably have to be made to fit pretty closely the 8-cent candy, because 98 tons of that move to every 2 tons of the dollar candy.

Q. You would not have a system of released rates based on value?

A. We would continue the released valuation to the extent we have them today, and we are using them where there is a very extremely wide range. Whether or not candy is one of the commodities which should be subject to released value, I could not say now. It might be. Where there is a very wide value range, we have been getting released rates orders from the Commission.

Q. You would have to have that escape, or you would have some absurd results.

A. We may have to have it to a greater extent than today.

Q. Thereby driving more people to the Commission to get relief.

A. Well, they have been going to the Commission for relief for a long time, Mr. Chairman.

Q. Is this not a fact, that every manufacturer as a rule in [fol. 2888] his endeavor to get a fair advantage will seize

a formula of this kind and always endeavor to use it if it means getting a little bit different rate than the other fellow?

A. I do not know whether that would bring more complaints or not, because the Commission in its past decisions and prescriptions—no criticism is meant at all, by what I am about to say, because you had no standard to go by, and that is where I think your principal trouble has been. You have had no *standard, and* therefore your prescriptions of ratings have been very inconsistent. You have prescribed one rating on a 70-cent per pound commodity higher than the rating on another commodity worth 20 cents per pound, having no more favorable classification characteristics. Now, your inconsistent descriptions have invited an awful lot of complaints. A shipper comes before you and he compares his commodity with those which are favorable to him. He can find, usually, hundreds of them. I have been before the Commission on several of those kind of cases and had no difficulty whatever finding decisions to back up most everything I wanted. The railroads have come in and they have picked those that were most favorable to them, and you have had two extremes before you.

Chairman Aitchison: I do not want to anticipate what I think you are going to cover, but I think it is necessary in order to understand your testimony:

[fol. 2889] By Chairman Aitchison:

Q. You are proposing a fixed classification, are you, which is to be accompanied by a maximum scale of rates?

A. I am not expressing an opinion about the maximum feature of the scale of rates. We are proposing a standard classification to govern whatever scale of rates you determine upon. This classification will to some extent determine the level of those rates and the whole thought behind it is to properly distribute the transportation burden among the different shippers and commodities. Now, we do not say that this formula can be reduced to an exact science. It is impossible with your wide variations of values and your different methods of getting values. However, it is better than what you have today, Mr. Chairman, and that is what I am trying to say.

Q. But you are contemplating that the great bulk of the commodities which move less than carload will move on classification rates?

A. Yes, sir. We think that less than carload freight is essentially class traffic. We think it should move under class rates.

Q. And not exceptions?

A. We see no excuse for exceptions if we have a classification of commodities properly related to each other. We see no excuse for exceptions.

[fol. 2890] Q. Are you going to deal with the subject of mixtures?

A. Mixtures?

Q. Yes.

A. No. I am not dealing with it.

Mr. Reed: In answer to a question you are, in one place here, the Commission's question on all freight items.

The Witness: Oh. Yes, in answer to that interrogatory of of the Commission.

By Chairman Aitchison:

Q. You will deal with the matter of mixtures to a certain extent, then?

A. Yes.

Mr. Reed: We do answer that question.

Chairman Aitchison: All right.

Com. Alldredge: I would like to ask one more question on the application of your value formula.

By Com. Alldredge:

Q. Would there not be some judgment exercised as to how you begin to apply it? Take the customary group of canned goods. If you dealt with a fixed group as a group in applying your formula, you would get a different result from what you would if you itemized each one, would you not?

A. Why, positively. If we dealt with a group under a generic term, you mean?

Q. Yes.

A. We would do our best,—the Commission should do *his* [fol. 2891] best, I should say, if the Commission decides to do it, to get the weighted average value of that whole group.

Q. That is the point.

A. And the weighted average density of the whole group.

Q. That is the thing. I want to know how you would apply the formula, whether you would take the articles of commerce that would be covered and deal with them item by item or undertake to deal with them by some form of grouping.

A. We would take the items as they are in the classification with possibly some changes, with perhaps nothing more than has been the practice in the past in a very loose way. In other words, the Commission has always given weight to the value factor and to the density factor, but you have done one thing in one case and then turned around and done something else dealing with a commodity having the same classification characteristics. You have had nothing, no standard to guide you.

Q. I am trying to find out what your standard is.

A. Sir?

Q. I am trying to find out what standard you propose. Let us go back to the question of canned goods.

A. All right.

Q. If you take, say, canned pork and beans as a separate item and then canned beans as another item and canned tomatoes as another and mushrooms as another and you [fol. 2892] apply your formula that way, you would come out with vastly different results from what you would if you started out by the use of certain groups, would you not?

A. It is not our idea that such a refinement would be made, as that.

Q. Have you perfected your plan so that you can tell us anything about the groupings, for instance, that you would observe?

A. We would observe the groupings which we have in the classification today with possibly some enlargement or divisions of items. I have in mind a few that I think should probably be divided and two items made where we now have one item, but not many.

Q. So in gauging the utility of your formula, the Commission could assume, for instance, you would begin with the grouping, the geenric grouping that now occurs in the classification?

A. That is right.

Q. Is that correct?

A. That is right.

Q. So if you had one group that you called canned goods, the Commission could assume that you would apply this formula to every item in there as a composite group, is that right?

A. As a composite group based on the best combination available, you would use in determining the rate based on the value element, the weighted average value of that group. [fol. 2893] You would give due weight to the cheapest kind of canned vegetable and to the highest priced. That is exactly what the Commission has done in these classification cases in the past where it has been influenced by value.

Q. I had hoped that you would do a little research on what the groupings should be, and where the application of the formula would begin, but as I understand it, you have not done any.

A. I have not, no.

Mr. Reed: We will have some more information on that later, Mr. Commissioner.

Com. Alldredge: Very well.

Mr. Reed: Is the Commission through?

Chairman Aitchison: Yes. Thank you very much. It is quite interesting. That is the reason we have taken so much time on it.

Mr. Reed: That is all right. No objection at all.

By Mr. Reed:

Q. Mr. Waring, will you proceed with your statement, beginning with the paragraph starting "The formula would be used", just past the middle of page 12.

A. The formula would be used to establish ratings based on value and density which would be modified by the utility groupings in establishing the class ratings, which ratings would be subject to some modification due to other elements shown in Section 5 of Part I, page 3 of Exhibit 145, these [fol. 2894] other elements being matters of judgment based upon experience.

Q. What is the Committee's position with respect to differences in ratings because of differences in methods of packing?

A. We are whole-heartedly in agreement with Mr. Fyfe of the Western Classification Committee regarding this. Much has been said during the past few years about classification simplification through the grouping of commodities

and the removal of rating differences due to packaging and this question has been given considerable thought. It is not something which should be dealt with in a theoretical way because it is a very practical matter. Lower ratings should be given to the better type packages—I have in mind there particularly the different kinds of packages, that is a bag as compared with a box, and so forth.

By Chairman Aitchison:

Q. You would give lower ratings to Cream of Wheat in a package amply guarded against loss and damage than you would to middlings in a bag?

A. No, because I doubt if we would ever have a loss and damage claim for the few middlings that might seep out of a bag, but if you put Cream of Wheat in it we wou- be ruined with damage claims because the loss of a few pounds of that would bring forth a claim for loss and damage. I would not make any distinction when we get down in the [fol. 2895] lower depths, such as middlings.

Q. I will give you one you will not dodge. That is prunes in bags and prunes in boxes. They are shipped both ways. Does a boxed prune have a right to claim a lower rating?

A. Under this formula, no. We did not include in the formula any definite allowance to be made for the kind of package. We do not believe it is susceptible to the exact prescription.

Q. You would not consider a box, then, a better package than a burlap bag?

A. Mr. Chairman, I am afraid I could not answer that. I would have to have some testimony from more practical people.

Chairman Aitchison: Proceed, Mr. Reed.

By Mr. Reed:

Q. Will you start that last sentence over again, please, Mr. Waring, beginning with "Lower ratings."

A. Lower ratings should be given to the better type packages not only to safeguard transportation agencies against loss and damage claims but to encourage the use of more durable packages or containers as a preventative of waste. Most shippers use containers which adequately protect the goods but in many cases, especially where merchandise is sold f.o.b. shipping point, containers which barely meet

the requirements without much regard to their sufficiency are used and if we should let the bars down, that is to say, make one rating for all kinds of packages, I am afraid that the cheapest packing method would be resorted to and we [fol. 2896] would find our damage claim payments increasing. Comment is made there on that question because I have heard many suggestions that one rating be made for each commodity regardless of what kind of package it is shipped in.

Q. That particular suggestion has been made to the truck lines, has it not?

A. Yes. They seem to think we can handle any kind of package without any extra care or without ever doing it any damage, which is a mistake.

Q. Go ahead.

A. No, I do not believe there has been too much refinement in our classification, either from a standpoint of the breaking down of the commodities by specific names or descriptions or by differences because of different packing methods.

As a matter of fact, contrary to the belief held by many, if we should reduce the number of specific descriptions in the classification, using to a greater extent generic descriptions, I think the classification would be more difficult of interpretation because the more specifically an article is described the less danger there is of misinterpretation. Frankly, I think that in many instances the descriptions are now too general in character. Most of the changes in the classification today are for the purpose of more specifically naming the articles and adjusting the ratings based on the transportation characteristics peculiar to such specific [fol. 2897] names or varieties of commodities.

Q. Will the formula which you have set out in Part I of your Exhibit 145 be utilized to establish carload and truckload rates? If so, in what manner?

A. It is so designed. The difference in rates for freight in different size shipments should be reflected in the rate tables.

It is our thought that a single class rating should be given to each classification item with the difference in rates on less than carloads and carloads or truckloads reflected in the rate scales or tables. For instance, a commodity which is a basic necessary valued between 25 and 50 cents

per pound and having a density of 22.5 pounds per cubic foot would be subject to a third class rating.

The variation in the rate scales, to represent the difference between carload and less than carload and truckload and less than truckload traffic, should, of course, be based upon the minimum weights fixed for the respective commodities in truckloads and in carloads. This spread between carload and less than carload traffic is a factor that is affected by the cost of transportation rather than by classification principles. The spread between carload and less than carload traffic should be based upon relative transportation costs. These costs will, of course, vary with the varying minimum weights established for various commodi- [fol. 2898] ties. After the minimum weights have been established in the uniform classification the spread in the rate scales representing the difference between carload and less than carload can be properly and fairly adjusted based on the service performed. The formula which we have suggested will establish the proper classification rating for each commodity or classification item based on its classification characteristics which in the case of package or box car freight would be the same whether in carload or less than carload or truckload or less than truckload. The process of arriving at rate scales on a level which would as a whole yield fair and adequate revenue for the handling of both carload and less than carload freight and both truckload and less than truckload freight would be largely a matter of mechanics.

Q. The conversion tables in Exhibit 145, Part I, Section 2, page 2, end at Class 15 or 50 per cent. Please state how you would class the basic carload commodities such as coal, ore, sand, gravel, and so forth, moving by rail which would of necessity require lower ratings than 50 per cent.

A. Low-grade commodities which move preponderantly by railroad, particularly commodities such as coal, ore, sand, gravel, and so forth, are loaded in open top equipment. Such commodities would have to be treated separately from the classification as, in fact, has been the practice in the past. As to commodities of a somewhat higher grade which do [fol. 2899] in a very limited way move in less than carload lots, such as lime, cement, and lumber some lower classes for carload movements should be established. We are proposing that Class 50 or 15 be the minimum for any less than carload and less than truckload commodity, however cheap.

Q. Do you propose to have the Commission adopt this formula and to use it to reclassify all commodities into classes and rework them on the basis of the formula?

A. No. We suggest it to the Commission as a basis upon which the Commission could require the carriers to do the job of reclassifying and conversion to the end that the classification itself, the classification exceptions and the commodity tariffs based on mileage scales may be simplified and inequalities removed. The formula has been suggested as the basis for the revision and simplification of our classification and class rate structure.

Q. Is it your thought that this formula could be used without readjusting the class rate scales?

A. No. A classification standing alone is meaningless. It must be complemented by appropriate class rate scales. The level of the class rates should be related to costs and yield sufficient profits.

Q. What is the purpose of Part III of Exhibit 145?

A. Part III of my exhibit is intended to illustrate the effect of the formula in classifying a comparatively few [fol. 2900] representative commodities and the changes which would be brought about through its use.

The commodities were selected as being typical of package freight for which railroads and trucks very actively compete, as well as representative of freight falling in all or most of the several classification categories from the standpoint of value, density and other factors. We have shown values and densities but had some difficulty in getting them from authentic sources and have not shown the sources of information. We are in fact doubtful about the values and density, especially the values, and it must be understood that the ratings proposed are merely shown for illustrative purposes and are by no means final.

Chairman Aitchison: What does the abbreviation "Cn" mean?

Mr. Reed: You mean, the abbreviation "Cn" in the exhibit?

Chairman Aitchison: Yes.

The Witness: That means "Classification." It is an abbreviation for the word "Classification." That is explained on the last page.

Chairman Aitchison: I see.

The Witness: It means "Classification."

By Mr. Reed:

Q. Proceed, Mr. Waring.

A. In other words, if we have not used correct values and [fol. 2901] densities they would be adjusted according to the formula based on true value and density figures. Assuming that our value and density figures are approximately correct, I think this part of the exhibit serves also to bring out many inconsistencies in the applicable ratings in all territories. It demonstrates the inequality of the applicable ratings in many cases and shows how unfairly the transportation burden is distributed. I will call attention to the ratings on two commodities which will illustrate what I have in mind.

Q. What page is flavoring syrup on? What page of the exhibit will you find flavoring syrup on?

A. The last item on page 13.

Q. All right. Proceed.

A. In the South flavoring syrup in less than carloads is rated 37 per cent of first class while canned fruits or vegetables are rated 50 per cent of first class. Flavoring syrup is used in making soft drinks which I think are in the luxury class——

Chairman Aitchison: You do not put Coca Cola in the luxury class down south, do you? (Laughter.)

The Witness (Continuing:) —while canned fruits and vegetables are processed farm products and are vital necessaries. Yet, even though the canned goods have an advantage in value, they are made to pay rates which are about 35 per cent higher than flavoring syrup rates. This cer- [fol. 2902] tainly is an example of improper and unfair distribution of the transportation burden.

By Mr. Reed:

Q. Explain just a little bit how your exhibit may be used with the illustrative commodities to show what in fact is the classification rating and what the going exception is on the commodities used as illustrative.

A. Flavoring syrup at the bottom of page 13. I do not want to talk about flavoring syrup too much, but it is a convenient example. It is rated third class in all three classifications, 70 per cent of first class. In Official Territory that third class is just a paper rating because it is

not used on any shipment any time. Class 52 applies throughout all of Official Territory.

Q. Your proposed——

A. That rating—let me say I am very familiar with it—was pulled down there through, you might say, fear of the trucking industry and the railroads, and that is all.

Q. The proposed——.

A. In the South it is third class in the classification, but has been reduced to 37 per cent. 35 per cent would be half of 70 per cent, so they have almost pulled it down 50 per cent.

Q. Are you talking about less than carload and less than truckload lots of flavoring syrup?

A. I beg your pardon?

[fol. 2903] Q. Are you speaking of less than carload and less than truckload lots of flavoring syrup?

A. Yes, less than carload and less than truckload lots.

Q. Your proposed formula would place that commodity at Class 67?

A. Class 67, yes.

Q. An illustration of the value-density formula and the application of the utility grouping would be obtained by comparing Columns 10 and 11 on page 12?

A. Yes. The value-density formula would make it Class 12, and we would boost that 15 per cent because it is in the luxury class.

Chairman Aitchison: I would like to ask you a question right there.

By Chairman Aitchison:

Q. Why is it that you start with the basic necessities and make no change, and everything that you do apparently results in a higher rating as you go up on those luxuries? Why not start about the middle and give the commodity a little better rating because it is a basic necessity?

A. Mr. Chairman, we would reduce flavoring syrup from third class, 70 per cent, to 67 per cent. The Commission has already found—there has been a case before the Commission on flavoring syrup and they have already found, I believe, second class to be reasonable on flavoring syrup. The [fol. 2904] Coca Cola Company brought the complaint. Now, although the Commission found 85 per cent to be no more

than reasonable, we pull that down under our formula to 67 per cent.

Q. Now, suppose it was a basic necessity. What would you do?

A. If it were a basic necessity, it would be Class 15, 50 per cent. Many of these ratings would be reduced. I would like to point out one in particular here, shellac gum. It is second class in the classification and it is made to pay second class. There is no exception. We would reduce that from 85 per cent to 61 per cent.

Chairman Aitchison: Proceed.

Mr. Reed: Mr. Waring, will you——

The Witness: Take milk of magnesia: we would reduce that slightly, even under the exception that is given. It takes third class or 70 per cent in exceptions throughout Official Territory, the South and in the West. We would slightly reduce that to 67 per cent.

Mr. Reed: I think that is sufficient, unless some one else wants to ask some questions.

The Witness: I was just answering the Chairman's question.

Mr. Reed: Yes.

By Mr. Reed:

Q. Is the American Trucking Associations, for whom you are speaking in this proceeding, taking any position with respect to the level of the class rates to be established in the various rate territories?

[fol. 2905] A. My position is being taken by me as witness for the American Trucking Associations, Inc., except that we take the view that the present less than carload rates of the railroads obviously are unprofitable and should be increased. At this time we take no position with respect to the measure of the increases nor territorial equalization. It is understood that the several motor carrier rate and tariff bureaus may make their own presentations with respect to this matter.

Q. Is it essential that the rate levels in the various territories be determined in order to establish a uniform classification?

A. No.

By Mr. McConnaughy:

Q. Did you say the less than carload rates are unprofitable for the railroads?

A. Yes.

Q. Are they unprofitable for the motor carriers?

A. No, not generally.

Mr. Reed: Unless there is some particular reason, Mr. Chairman, I see no reason why the witness should read the answers to the Commission's formal questions.

Chairman Aitchison: It may be copied in.

The Witness: A uniform classification may be established based upon the classification factors applicable to the respective commodities. However, it is essential in order to have a uniform classification that we do have uni- [fol. 2906] form percentage relationships among the various classes, and have established the number and character of classes that we are to have. I believe that this can be done prior to the establishment of the general rate levels. It is my opinion that the classification and the percentage relationships among the classes should first be established and a basis set up for the publication of a uniform classification. Prior to the determination of the rate levels under such classification there should be an extensive traffic survey so that a proper rate level would be established in the respective territories based upon the conditions obtaining in such territories.

By Mr. Reed:

Q. In its notice to the parties and the public of January 9, 1940, the Commission asked for answers to several questions. Have you prepared the answers of the motor carriers in so far as they have an interest in such questions? If so, please repeat the question number and the answer of the Common Carrier Motor Truck Lines.

A. Question 4 asked for an expression regarding the progression of class rate scales for less than carloads and carloads. I am not prepared to offer any suggestions as to the rates of progression but I have already said that we do not believe that there is any reason to observe the same rate of progression for both less than carload and carload rates because the respective levels of these rates should be [fol. 2907] related to cost in which entirely different factors are present.

Question 5 asked for a statement on the percentage relationship between the rates on the various classes.

My Exhibit No. 145 presents the percentage relationships which we believe to be essential and the number of classes that should be established for the publication of a uniform classification.

Question 7 asked the extent to which class rate traffic of the railroads is affected by competition encountered from motor carriers and water carriers, common, contract and private.

It has been the experience of motor common carriers that in so far as less than carload and less than truckload package freight is concerned the competition of private carriers is of very little importance and is of such a nature that it would be improper and unwise to let it influence classification of freight or the measure of class rates. There are cases where private carriers handle less than carload package freight but the volume is comparatively small and the length of haul usually very short. It is my opinion that in most of these cases it is not the measure of the rates that is controlling but that it is a matter of service which neither the railroads nor motor common carriers can satisfactorily render. Of course, I am referring to unusual sit- [fol. 2908] uations. This is likewise true with respect to competition of contract carriers.

Between railroads and motor common carriers, there is intense competition in the handling of shipments in both large and small quantities, the degree of such competition varying with the circumstances of movement. The competition of private and contract carriers is encountered principally in the handling of truckload or carload freight but even then it is not of such a general nature that recognition should be given it in setting up a classification or a class rate structure.

Question 8 asked what has been the effect upon the movement of class rate traffic of the traffic transported on the basis of "all-commodity" rates and freight forwarder companies.

The "all-commodity" rates which the railroads have established have, probably more than anything else, broken down the principles of classification without justification. The purposes behind them, as I have understood it, have been of several varieties. Less than carload "all-commodity" rates have been published allegedly to meet truck or

carloading company competition but they have not served their purpose because in practically all instances they have been met by the trucks or carloading companies with the result that the several transportation agencies are still on [fol. 2909] a rate competitive basis, but on a lower level which is usually unprofitable. Carload "all-commodity" rates have been established for the benefit of the carloading companies and possibly a few large shippers of mixed commodities. They have served to divert less than carload shipments from both the railroads and trucks to freight forwarders, even though freight forwarders are in competition with the railroads as well as trucks for such freight.

"All-commodity" rates are definitely not in the public interest and have contributed greatly to diminishing the revenues of both railroads and motor common carriers, thus throwing an undue burden on the traffic which moves under normal class rates.

Question 9 asked concerning the desirability of stating separately the charges or allowances for pick-up and delivery services?

The common carrier motor truck lines are unalterably opposed to any separation of the pick-up and delivery charges from the normal applicable rates for the handling of less than carload and less than truckload class rate traffic.

We believe that any such separation would bring chaos in the freight rate adjustment for the handling of the less than carload and less than truckload traffic. The most serious result that would follow the separation of pick-up and delivery from the line haul rates of the carriers would [fol. 2910] be the disruption of the competitive equilibrium within a given terminal district. The location of the carriers terminals with respect to the traffic of a particular shipper would have a direct bearing upon the cost of performing the pick-up and delivery service. Some carrier terminals are more advantageously located with respect to one shipper's business than are the carrier terminals of some other competitive carrier. A separation of the line haul rates from the service of pick-up and delivery would result in the distance that freight might be hauled within a terminal being a factor in the routing of the freight in the performance of line haul service. The next result which would inevitably follow would be rate readjustments to equalize these conditions. The ultimate result would be a lower level of rates which would substantially include the

cost of pick-up and delivery service. A separation of pick-up and delivery from line haul rates would increase materially the cost and difficulty of handling package freight through the terminal facilities in that it would multiply the number of vehicles engaging in the pick-up and delivery service. It would require, in my judgment, a material increase in the size of the carriers' station facilities to meet this condition. We believe that the inclusion of pick-up and delivery service in the line haul rates contributes to the economy of handling less than truckload and less than carload package freight.

[fol. 2911] Question 10 asked for the classification principles or the elements to be considered and employed in determining the classification of articles.

My Exhibit No. 145 presents these principles or elements and also illustrates the application which we think should be made as such principles.

Question 11 asked for the number of classes necessary for the classification of freight by water rail and motor transportation.

My Exhibit No. 145 presents the number of classes which we believe to be necessary for such classification.

Question 12 asked shall the classification of freight be revised to accord more or less importance to a weight base with less or more regard to value.

My Exhibit No. 145 presents a formula which we believe accords to both density and value the proper consideration which should be given to these classification factors. It is our belief that the unwarranted and unjustified reductions which have been made by the rail carriers in their less than carload classification ratings either through the classifications, exceptions or commodity rates have almost entirely disregarded the element of value and in many cases have disregarded the element of density. Also it is my judgment that the Commission in the past has not given sufficient consideration to the density factor where it has estab-

[fol. 2912] lished a classification or exception rating.

Question 14 asked to what extent the size of railroad cars and the size of truck bodies should be considered in establishing minimum weights. It is my judgment that minimum weight should be established in the future as they have in the past based principally upon commercial considerations. I do not mean to say that loading ability and the density of the commodity has had no bearing upon mini-

mum weights, because they have, and properly so, but they have not been used as the sole basis of establishing minimum weights.

Commercial considerations have entered into the establishment of such minimum weights. For instance, commodities that are capable of loading more than the axle carrying capacity of box cars have minimum weights of 30,000, 36,000 or 40,000 pounds. It is my belief that density as modified by the commercial necessities of the commodity should be the basic factors upon which all minimum weights are established. The minimum weights are established. The minimum weights so determined for the railroads should not be broken down through the use of lower truckload minimum weights at the railroad carload rates but as a matter of competitive necessity trucks should be privileged to meet the railroad carload rates and minimum weights when it is profitable for them to do so.

Commissioner Splawn: Let me see if I understand what [fol. 2913] that means.

By Commissioner Splawn:

Q. Do I understand you to suggest that the railroads not be permitted to put in a low minimum merely because the truck has a low minimum? Is that right?

A. No, I didn't say that. On the contrary, I think they should, if they can show that they would make a profit out of it. In other words, Mr. Commissioner, I believe that it is in the public interest to permit the greatest freedom between the two groups of carriers, but they should not take it so far as to throw a burden on other traffic in meeting their competition.

Commissioner Splawn: I was asking a preliminary question there.

By Commissioner Splawn:

Q. The thing I want to know is whether or not you recommend that either the railroads or the trucks in competing with them have a minimum beyond the capacity of the vehicle.

A. Well, you mean, should the railroad be permitted——

Q. In other words, a minimum above the capacity of the car, for the railroads, and a minimum above the capacity of the truck to be loaded, for the trucks.

A. I cannot conceive of any competitive necessity for that but I can conceive of a competitive necessity for trucks having a greater minimum than a truck can haul.

Q. I did not understand the last part of your answer.

[fol. 2914] A. Only when there is a competitive necessity for it, and I cannot conceive of any instances where the railroads would have a competitive necessity for making a minimum weight equal to the capacity of one and a half cars, or two cars, or anything of that kind. I cannot conceive of any competitive necessity for that.

By Chairman Aitchison:

Q. How about to meet barge competition?

A. Well, that is a case of trainloads as a rule. That is —trainload proposition.

Q. How about meeting pipeline competition?

A. Even there, Mr. Chairman, with respect to the barge lines, the barge lines, according to my understanding, have been in the habit of making their rates in units of carloads, even though they handle them on barges.

By Commissioner Splawn:

Q. Are you suggesting these commercial necessity volume rates with minima dictated by competitive conditions so long as those minima are less than the loading capacity of the car or the truck?

A. Mr. Commissioner, I think that possibly some of the minimum weights might be increased because of the greater capacity of the cars, but we favor the principles or the practices which have been followed in the past by the railroads in making carload minimum weights and they have been based largely on commercial considerations, that is to [fol. 2915] say trade units, or sales units. For example, many of the commodities subject to a minimum of 36,000 pounds could probably be loaded so heavily as to break an axle.

Q. You would not change that?

A. I would not change that.

Q. Now, you made a remark, I thought, about competition, and I got the impression you were talking about the competition of trucks. Would you have the trucks, then, publish a 36,000-pound minimum to meet that 36,000-pound minimum?

A. I certainly would. Decidedly.

Q. You would?

A. Yes, sir.

Q. Even though the truck might only be able to load to half of that amount?

A. Yes. It is a competitive necessity.

Mr. Reed: There are some other reasons given in your answer here, are there not?

The Witness: Yes. There are some other reasons.

Mr. Reed: Yes.

The Witness: But the primary reason is the competitive necessity of meeting rail rates, and I would permit it, Mr. Commissioner, as we stated here, only when it is profitable for the trucks to meet that rate at that minimum.

Com. Splawn: I understand what you mean now.

The Witness: Yes, sir.

[fol. 2916] By Mr. Reed:

Q. Proceed with your statement, Mr. Waring, beginning in the middle of page 22, the last paragraph.

A. So far as truckload minimum weights are concerned, I see no way of fixing any standard because of the different load limits fixed by state laws. Certainly, however, only chaos of the most destructive nature would result from the use of truck capacity in determining truckload minimum weights for the simple reason that even where there are the most liberal state laws the size and capacity of trucks or transportation units vary from 5 to 20 tons or more. If such a principle were followed and the truckload rates, regardless of the minimum, were the same in any given area or between any two points, the carrier having the smallest transportation units would have the lowest minimum weight and, consequently, an insurmountable competitive advantage. If there are to be truckload rates based on lower minimum weights than railroad carload minimum weights then by all means the minimum should be based on the normal or predominant size vehicles. They should not be influenced necessarily by state load limits, either.

By Com. Splawn:

Q. Could your publishing agents police the operating companies with reference to the capacity of their vehicles,

where minimum weights were published beyond the capacity of the vehicle to load?

A. I am sorry, but I do not believe I got your question, [fol. 2917] Mr. Commissioner.

Mr. Reed: He asked you if the publishing agencies police transportation under such minimum weights, where they exceed the loading capacity of the vehicles. Was that your question, Mr. Commissioner?

Com. Splawn: Yes.

The Witness: Where the minimum weights exceed the loading capacity?

By Mr. Reed:

Q. How would you police the application of the rates to that?

A. So far as our territory is concerned, there would not be any policing that I can think of necessary. We do not have any rule providing for the payment of less than truckload rates on overflow from a fully loaded truck. We could not have that rule because, for example, between Baltimore and Washington there is the Capitol Motor Lines running straight truck jobs with 5-ton capacity, competing with the Davidson Transfer with 30-foot trailers and an axle and tire capacity of 15 tons. If we had any such rule as that, the Capitol Motor Lines could not possibly handle any shipment weighing between 5 tons and 15 tons in competition with Davidson. The overflow rule would penalize the shipper via Capitol Motor Lines. We have never believed that an overflow rule is a practical thing.

Com. Alldredge: Mr. Waring, you would have a policing [fol. 2918] problem, would you not, for instance, if——

The Witness: I thought that is what he had reference to.

Com. Alldredge: He was talking about your general problem of policing.

The Witness: What would be the policing involved?

Com. Alldredge: I was going to ask you about that.

The Witness: Pardon me.

By Com. Alldredge:

Q. Supposing that on some article, iron and steel, for instance, you had a truckload rate based upon a normal truckload quantity of 18,000 pounds, but you desired to meet the lower rate of the railroads with a 36,000-pound

minimum. Now, the truck would have to make two loads out of that 36,000-pound volume shipment, yet it has a higher rate for an actual load of 18,000 pounds. How would you police the application of those two rates under those circumstances?

A. Well, of course, in order to get the lower rate on 36,000 pounds, it must be one shipment on one bill of lading shipped at one time.

Q. The difference, then, is that you just execute a bill of lading; that is one difference.

A. It would very definitely have to be offered and be available for transportation. That is very definite. We have the same case exactly in shipping off of New York [fol. 2919] Piers in New York by railroad. When I was representing a shipper up there, it was nothing unusual to have the railroads, because of their own convenience, move a lighter away from the pier with half the carload on it and come back the next day and get the other half of the carload. We complained about it, because we did not want it that way. We wanted the entire car to reach destination intact, but for their own convenience they moved half of it one day and the other half the next day. Now, the truck people, I say, should have the same right as an operating convenience, but it should not be abused, and in order to avoid abuse, and using that as a device to defeat the rate, I say that there should be a requirement attached to any such rate that the entire lot be carried forward by the truck in one day. There should be a requirement attached to any such minimum weight, any truckload or volume weight.

Q. Is there such a requirement today?

A. We have some rates subject to minimum weight which cannot be loaded in a truck either because it exceeds the capacity of the vehicle or because of the state load limit laws. We do not have such a rule, but if that will save those rates, it will give us the greatest pleasure to put those rules in our tariffs, if to do that would save those rates, which were apparently lost under the decision in Docket M-1216.

[fol. 2920] Q. Commissioner Splawn was trying to find out what arrangements you have for policing those rates. Supposing I am a shipper of iron and steel and I have 36,000 pounds lying out on the platform. You are a motor carrier operator, and you have a volume rate of 36,000

pounds, but you cannot haul more than 18,000 pounds on a truck. You have another higher rate on a truckload of 18,000 pounds. Now, what do I have to do to get the volume rate on 36,000 pounds and what is done to assure that you will not perform the service as though it is two truckloads at 18,000 pounds, but assess the rate on 36,000 pounds?

A. So far as the truckman is concerned, wouldn't that be an operating matter, and so far as the shipper is concerned, what difference does it make to the shipper? I cannot see that.

Q. I do not know what difference it would make to that particular shipper, but it might make a lot of difference to the competitor of that shipper.

Mr. Reed: I think he misunderstood your question.

The Witness: I think you mean that in order to give some preference to that shipper, to accommodate him and to, in reality, give him less than truckload service, or less than carload service——

Com. Alldredge: Less than volume service.

The Witness: —less than volume service—the truck men might connive with him to haul 18,000 pounds one day and [fol. 2921] 18,000 pounds the next. Mr. Commissioner, in hundreds and hundreds of different instances and under many circumstances the motor carriers or the railroads could connive with shippers to do things of that nature. For example, there is no rule today regarding the movement of complete units of less than truckload shipments or even truckload shipments. Today a shipper could offer a truck man 20,000 pounds, a 20,000-pound shipment, and the truck man could, on the claim that it is for his own operating convenience, send a 5-ton truck for that shipment and handle it and say, "Well, I don't have any more vehicles until day after tomorrow," and then send one day after tomorrow, say, another 5-ton truck, day after tomorrow, and get the other half of it. Connivances of that kind are the simplest thing in the world on the part of shippers and truckmen. I see no more danger of that kind of practice to defeat the rate than there is danger today of practices to defeat rates of every nature, and rules too. The only thing that prevents them is the fear of prosecution, and they are being prosecuted by the Commission day after day for those kind of things. That is the only salvation. But if a rule were put in the tariff and it all had to move

out, why, then the policing of it would be precisely the same as the policing of anything else that is handled.

By Com. Alldredge:

Q. Do you have such a rule today?

A. No. There is no rule in our tariff today. We tried to [fol. 2922] publish one in connection with a certain rate, but you suspended it and kicked it out.

Q. Well, just in connection with one rate.

A. That was the iron and steel rate, Pittsburgh to Baltimore.

Q. I noticed in the rules extracted from the classification, for instance,——

A. We published in that tariff——

Q. Pardon me.

Mr. Reed: Just a minute.

The Witness: I am sorry.

Mr. Reed: The Commissioner has not finished his question.

The Witness: I beg your pardon.

Com. Alldredge: I noticed in the rules extracted from the classification that a bill of lading must have only one consignor and one consignee in it, but I do not think that is being universally observed.

The Witness: I think it is, so far as I know.

Com. Alldredge: So far as I know, it is not, not by any means.

The Witness: I have no personal knowledge of any violations of that rule.

Com. Alldredge: Sir?

The Witness: I definitely have no personal knowledge of any violations of that rule, Mr. Commissioner.

[fol. 2923] By Com. Alldredge:

Q. How about your split delivery shipments? Do you execute more than one bill of lading on those?

A. There is a rule which provides for that; we have a split delivery rule, but even in that case the rule does provide for one consignee and one consignor, but in actual delivery, delivery is made to different consignees.

Com. Alldredge: Well, we will not argue that question.

By Com. Alldredge:

Q. What organization or plans do you have for enforcing these provisions like the volume ratings?

A. I cannot say that we have in mind any more policing of that, Mr. Commissioner, than policing of anything else we have. So far as policing of trucking companies is concerned, we have not reached the stage of development in the trucking industry where we could possibly set up anything comparable to the Railroad Weighing & Inspection Bureaus, because the individual trucking companies will let the Interstate Commerce Commission men check their records; but they have never signed an agreement to let any representative of any trucking bureau, anyone except the government, go into their records, and therefore, frankly, we cannot set up anything to police the trucking companies, not in our territory.

[fol. 2924] By Mr. Reed:

Q. Mr. Waring, I would like to call your attention to the follow-up rule in the rail classification where you have a minimum weight that might be loaded in a box car but the actual shipment will be such that it will not be accommodated by one box car and not sufficient for two. Why wouldn't that be a method of restoring your volume rates so that they could be policed?

A. Yes, Mr. Reed, that is a fact, and I have had a lot of personal experience with it. When I was with the United States Leather Company, we frequently offered the railroad on one bill of lading on one day, to the same consignee at one destination, 200,000 pounds of hides. I have seen them put ten car numbers on one bill of lading. The last car might not have more than 5,000 pounds in it.

Chairman Aitchison: I think we will have to ask to have the remainder of this copied in.

Mr. Reed: We are willing to do that, Mr. Chairman.

The Witness: What I have just alluded to is something which probably should be dealt with in the motor carrier cases, but it is raised in question 4. Question 15 asked concerning the desirability of making less than carload and less than truckload rates vary with the weight or volume of the shipment. It is the belief of the common carrier truck lines that such less than carload and less than truckload rates should not vary with the weight or volume of the shipments,

[fol. 2925] but should vary only with the classification principles which I have set forth in my Exhibit No. 145.

Question 16 asked concerning the practicability or necessity of a uniform basic classification of freight for all rate territories, (a) for all transportation agencies, or (b) for each transportation agency. We believe that there should be a uniform country-wide basic classification of freight for all rate territories and for all transportation agencies.

As I have previously explained, we are making no attempt here to deal with heavy bulk freight but only with package freight moving in box cars. It is freight of a character which is consumed in all parts of the country and generally in direct ratio to the population. It originates, either at factories or warehouses, in all parts of the country and we can seen no justification for territorial differences. If differences in rates are justified by costs or other consideration, such differences should be expressed in the rates themselves and not in the classification. It follows that the inter-relationship of classes should likewise be uniform throughout the country.

By Mr. Reed:

Q. Have you anything further to say, Mr. Waring?

A. I wish to supplement what I have had to say about using the same class for less than carload and carload shipments, the differences in the rates to be reflected in [fol. 2926] the rate tables. There are instances where distinctions are made in the less than carload ratings because of the different types of packages used while the carload rates are the same for different types of packages because carload freight is not subject to the handling which is necessary in the case of less than carload freight. I think this is sound and I do not want to be understood as proposing to change it. In a classification designed to accord generally the same rating for both less than carload and carload freight distinctions of this kind could be made without difficulty. It is merely a matter of tariff mechanics.

Mr. Reed: May we offer Exhibit 145?

Chairman Aitchison: It will be received.

(Exhibit 145, Witness Waring, received in evidence.)

Chairman Aitchison: Cross-examination. We will take a short recess at this time.

(Recess taken.)

Chairman Aitchison: Come to order.

Cross examination.

By Mr. Healy:

Q. Mr. Waring, as I understand you, you think that the density factor should be the basic factor in making classification?

A. Well, I have been trying to decide myself whether value or density is the basic factor. I don't think you can say that [fol. 2927] either one is; they both are; a combination of the two that makes the base rate.

Q. Have you weighted them equally in this presentation today?

A. Have I what?

Q. Weighted them equally in this presentation today?

A. Well, you can't equalize two different things very well.

Q. To what extent have you recognized weight density?

A. Well, I can't give a better answer than you will see there in Section 1 of page 2 of our exhibit.

Q. All right. Now, we checked this Section 1. You have recognized the logical application of your theory in the first column, under 22½ pounds base?

A. That is right.

Q. Is it correct that in the second column, 17½ pounds, you have only recognized it in four instances?

A. Well, we haven't given—we have recognized it in all instances but we haven't given the same weight to it in all instances.

Q. How about the second column, 12½ pounds?

A. Third column.

Q. The third column, rather.

A. We have recognized it. But we have lessened the weight, if by that you mean the revenue to be produced from each cubic foot of space.

Q. How did you lessen the weight to be given to the [fol. 2928] value of the density elements in those columns?

A. It was to some extent, and I hate to use the word, arbitrarily done; but what we actually did was take the

2½ pounds density freight when worth less than 5 cents a pound, six times the rating for 22½ pounds density freight. That was an arbitrary figure. We just decided that that was about all it could take, was six times the rating or the rate for what we call the optimum density freight, and then our next step was to go down and fix the percentage relationship for the freight, the highest value, that is over $4 a pound, and we decided that 450 per cent was all that that could stand. Today the highest rating, I believe, is four times first class. 450 would be 4½ times first class. We fixed those two percentage relationships in that last column and then we graduated out from the base figures up to the highest rating.

Q. Well, did you graduate it on any consistent progression or was it more or less arbitrary?

A. I would say it was consistent but not regular.

Q. In other words, no matter what form you used in making a classification, it must be modified by judgment factors, is that correct?

A. Well, the only thing that is the straight, out-and-out regular percentage progression is the first column of 22½ pound freight.

Q. And the rest of them are all modified in accordance [fol. 2929] with your best judgment?

A. The rest of them are graduated up to the 300 per cent for the cheapest freight and the 450 for the highest class freight.

Q. And it is graduated according to your best judgment of what the traffic will bear?

A. And it is graduated according to our best judgment, and they are graduated—I mean by that, the progression or jumps are as regular as they could very well be.

Q. Now how did you arrive at 22½ pounds as the base in making this study?

A. Well, freight of that density has, in the past, been classified from the most favorable standpoint by the railroads, so far as the railroads are concerned. So far as the trucks are concerned, why, we can usually get our capacity load, a carrying capacity load.

Q. When you say "we," you mean the truckers?

A. That is right; with freight of that density.

Q. In other words, the 22½ pounds is used in accordance with the experience of the truckers?

A. That is right.

Q. And has nothing to do with what the railroad situation might be, is that correct?

A. Yes, the railroads, I said, have, in determining their ratings, classification ratings, have generally given as favor-
[fol. 2930] able consideration to freight of that density as they have to freight weighing 50 pounds a cubic foot.

Q. Isn't it a fact that there are very many important commodities moving both by truck and by rail with densities greater than 22½ pounds per cubic foot?

A. Oh, densities up to 100 pounds or more per cubic foot.

Q. Why should those densities be ignored in classification?

A. They have been ignored in the past.

Q. Are you sure of that?

A. Well, there may be some instances, but generally speaking. Generally speaking, the railroads have given as favorable consideration to freight of that density as they have to freight of heavier density.

Q. Doesn't this ignoring of the density over 22½ pounds result in some odd situations with respect to the carload ratings? Have you made any examination on that?

A. Well, we have proposed here that the same ratings apply for carloads and the differences be reflected in the rate tables, of course.

Q. Well, take one illustration in your Exhibit 145, where you show the present ratings on meats, cooked, cured or preserved, n.o.i., and fresh meats. Have you got that before you?

A. I have it before me.

Q. Today the ratings on fresh meats in less than carload are much higher than those on the cooked meats, is that correct?

[fol. 2931] A. Yes, sir.

Q. Under your formula, they become the same?

A. Yes, sir.

Q. And therefore they have the same carload rating, is that true?

A. In that case I would depart from that rule, I think. I think in my testimony I stated that that would be true, generally speaking, but some departures from that rule would be justified. I didn't refer to this kind of a case, but I can easily see where fresh meats would not ordinarily be loaded as heavily, and for other reasons, probably they should take a higher rating in carloads than the cured meats.

Q. So that is another instance of where the best judgment of the man making the classification has to be exercised, irrespective of whatever formula he was following?

A. That is right.

Q. Now, how did you arrive at the percentages shown in the second column, under Section 1, where you show base 105, 115, 125 and such?

A. Well, taking the prescribed ratings and the published ratings in the classification in sort of a composite, broad form, they seem to progress that way at the present time.

Q. That is your best judgment of the way they do progress?

A. To a great extent, it was a matter of judgment in progression.

[fol. 2932] Q. Now, how would you weight the utility or the other classification elements which you set forth in Section 5 on page 3?

A. It must be left to the matter of judgment.

Q. How did you arrive at the factors under the utility class in Section 4?

A. That is where we have just—that represents our best judgment.

Q. In other words, Mr. Waring, is it true that under this proposal, if the Commission should direct the carriers to reclassify all of the freight now moving, that they would still be forced to exercise their best judgment?

A. To a very large extent, yes, sir, but as to the utility factor, we are inclined to think that the Commission should definitely prescribe some relationship to a normal rating and to say what should take normal rating.

Q. Wouldn't there be duplication in many instances because what was basic industrial material for one industry might be a finished product for another industry. How would you handle those differences?

A. You will find cases of that sort, and I have said before, it is a most difficult thing to reduce this to an exact science. Much must be left to judgment. We freely admit that.

Q. After we exercise our judgment in accordance with this presentation of yours, will the truckers adopt the [fol. 2933] classification which results from that study?

A. We think there should be uniform classification. We think we should help you make your classification.

By Chairman Aitchison:

Q. In other words, you wouldn't want to publish this tariff for all motor carriers in United States and let the Commission suspend it for investigation as to its reasonableness?

A. I am sorry, I didn't get the latter part of your question.

Chairman Aitchison: Read the question.

(Question read.)

The Witness: Mr. Chairman, that might be one way of reaching our final objective.

By Chairman Aitchison:

Q. Of course it is one way, but would you want to do it?

A. It is something—that particular question has not been discussed in our committee and I couldn't say right now yes or no. Our idea, frankly, was that we are not wedded to it; the Commission should come out with some pronouncement as to the proper elements to consider in making a classification and, in plain language, say that rank departures from the principles so stated would be deemed undue preference in favor of those commodities so favored.

Chairman Aitchison: Would you mind if I interrupt you just a minute, Mr. Healy?

Mr. Healy: Certainly not.

[fol. 2934] Chairman Aitchison: On this very thing, on this matter of where basic necessities shall be placed.

By Chairman Aitchison:

Q. Doesn't that throw us right into the realm of major political economics? In other words, isn't your idea of free trade or protection to be applied there?

A. I thought frankly that that would be entirely consistent with congressional resolutions and other expressions, that these commodities which are so essential to our living and our growth industrially and otherwise ought to be treated leniently. It is more or less in line with the resolution which brought about——

Q. 17,000.

Mr. Dana T. Smith? 17,000.

By Chairman Aitchison:

Q. But you haven't done that?

A. Sir?

Q. You haven't done that because that resolution says that the products of agriculture, including livestock, shall be accorded the lowest lawful rates, and you put them in a class ahead of basic raw materials and unprocessed farm products.

A. That is very true.

Q. You differentiate between the products and the raw material of agricultural products?

A. Well, we do think, regardless of that resolution of Congress, that basic raw material such as coal and ore are entitled to just as favorable consideration as corn and [fol. 2935] wheat, livestock.

Q. Well, if something is of a basic necessity, the community has to have it in order that it may continue existence as a community, you have that 17 per cent above the basic raw materials; other things being equal.

A. Well, the raw materials are proposed to be on a 15 per cent subnormal basis for several reasons, one of which is that there is assumed to always be an outbound product to be transported.

Q. What I am getting at is just this. There is really almost a governmental question involved as to whether a basic necessity should be what you call the normal basis?

A. Well, it might be. I think it is a matter to be considered from the standpoint of public interest. The Commission has decided a lot of cases from the standpoint of public interest, and to my recollection, they have been upheld.

Q. We have oftentimes said in public interest that a given commodity should take the lowest rate which was lawful for it, but that is as far as we have gone, I believe.

A. Well, I didn't know. Of course, I am not a lawyer. But I should think, that based on the lengths to which you have gone in giving weight to utility, you have done it—fertilizer, for example, that you could go as far as we have proposed here. In other words, this would not be inconsistent with your decisions in the past, having in mind, of [fol. 2936] course, Docket 17,000 and what you said in the fertilizer cases and other cases that you had before you.

By Com. Alldredge:

Q. You meant if they told him then to include something more than food products, basic necessities?

A. Yes, sir; clothing.

Q. Sir?

A. Clothing.

Q. Included in that?

A. Clothing is a basic necessity.

Q. Of course, we might argue about what kind of clothing, but would you include all clothing?

A. Well, that is one of the troublesome things that you would run into, I must confess, but offhand I would say yes, all clothing.

Q. Well, I got the impression—I am glad you straightened it out—that you were referring to food commodities.

A. No. Foods, generally speaking, would be the processed farm products.

By Com. Splawn:

Q. Well, when it comes to placing these commodities in the category of basic necessity, where lower freight rates are involved, how many basic necessities would you confront?

A. I imagine there would be a lot of controversial questions arising under this docket, it couldn't help but be otherwise, but I still say that some kind of a standing is better [fol. 2937] than no standing at all, and that is what we have today. When you have a classification before you today you have all those differentials and then some more besides, because you find so many inconsistent decisions.

Q. Aren't you getting away from your theory of value there? You have used a term, undertaking to classify commodities according to value. Is that what you had in mind?

A. Well, we are undertaking to classify commodities according to value, and then we propose to modify that.

Q. Those, with exceptions of the higher values, you would step up 15 per cent, is that right?

A. No, we would arrive at the rating based on the value formula first and then we would reduce or increase that 5, 10 or 15 per cent, according to the utility classification.

Q. Well, under that utility thing, weren't you there considering more exceptional value than mere utility?

A. No, sir. No, that is one of the things that we discussed, debated a long time in the committee. There were originally some very sharp differences of opinion, and I will give you one illustration that I think will help answer your question. A raw material, about as raw as any material can be, is vanilla beans. We have had a lot of trouble with vanilla beans. They are worth, according to last reports I had, I think around $5 a pound. Now, frankly, that is a commodity that I don't think is entitled to any utility consideration. [fol. 2938] Q. Right there, may I interrupt? They are worth $5 a pound because they are scarce, not because of considerations of utility, particularly?

A. Well, don't you think that the value of everything, most everything, rather, depends to a large extent on the scarcity of it? All raw materials, nearly.

Q. That is quite true.

A. But Doctor, you know you can take a pound of Vanilla beans and make a carload of vanilla extract.

Q. Yes.

A. The vanilla beans, that is a raw material. Vanilla extract is a manufactured luxury product. That is the inconsistency about this formula. I don't mind confessing the defects of it as well as its——

Q. Do you have any difficulty there about those vanilla beans? They can easily be distinguished from navy beans?

A. Well, they, in my opinion, should be classified separately in the classification by name. And many of the essential oils. Of course, essential oils are processed, but vanilla beans are not processed at all.

Q. Isn't that the difficulty here, that you have used a very general term, "utility," and the words "basic necessities": I think we all understand what you have in mind, but probably you want to study that phrasing a little bit, your terminology a little more.

[fol. 2939] A. It no doubt could stand some further study, although we, in our own imperfect way, did debate it over a period of about six months and this is——

Q. But you agree with the Chairman that this basic necessity would lead us into the realm of speculation and political economy that would be interminable, wouldn't it?

A. I would like to do more thinking about it before I answer you finally.

Com. Splawn: Yes.

Chairman Aitchison: Proceed, Mr. Healy.

By Mr. Healy:

Q. Well, I understood in answer to a question from the Bench, you stated that in ascertaining the value of density to be used in ascertaining classification ratings, the weighted averages should be used?

A. Yes, sir.

Q. That is not the process you followed in preparing Part III of your Exhibit 145, is it? Have you used simple averages there?

A. We have used simple averages where we have shown the spread, for the very simple reason that we had no way in the world of getting weighted averages; but in other instances we have tried to use weighted averages. In one case in particular, that is shellac gum we got the average value and the weighted average from the comparatively recent I. C. C. report.

Q. You say you know of no way to ascertain the weighted [fol. 2940] average?

A. Oh, I didn't say that. I said we didn't. We didn't have the machinery set up nor the time nor the power to demand them, but if there should be on the railroad or motor truck classification docket a proposition to reclassify these commodities, I don't think you would have much trouble in getting the accurate figures from the shipper.

Q. You could apply that to all commodities in the classification, could you not?

A. In fact, I think the railroad classification committees probably have more than 75 per cent of this information in their files.

Q. One more question with respect to the various elements to be considered in classifying commodities. You stated with reference to bulk commodities, supply, demand and market competition are the controlling factors which must be considered, in addition to cost. Why shouldn't those facts be considered in classifying what you call merchandise freight?

A. Well, there are many good reasons. What we call merchandise freight is freight——

Q. Or box car freight.

A. Box car freight is freight that is spread over the whole country, in a much greater degree. That is, the shipments are from warehouses, factories and stores in all kinds of places, all cities, to all destinations. Your coal only comes

[fol. 2941] from well-defined coal-producing areas. So does your sand and gravel. So does your ore. It is a matter of one producing area competing in a market with another producing area. I don't see how a mileage scale of rates could very well be worked. I think you only have to see that very plainly in reading from the lake coal rate cases.

Q. You don't think there is any competition between these commodities moving in box cars?

A. Why, certainly, there is competition between them.

Q. Doesn't that have to be recognized also in making rates or classification?

A. In making your classification?

Q. Yes. Say if you had——.

A. Well, if it is of the same value and density, it would automatically take the same rating, so that remains your competition element.

Q. Then you would have different value and density applying to commodities which can be used for the same purpose?

A. Let the man who has the weakest article, from the classification standpoint, get the penalty that belongs to him. Don't equalize the man who has the advantage by giving him a penalty rating.

Q. In other words, you would ignore that competition?

A. I would ignore that definitely; wrong and unfair.

Mr. Healy: I believe that is all, thank you.

[fol. 2942] Chairman Aitchison: Is there anything further?

Mr. Grubbs: I have a question, if your Honor please.

Chairman Aitchison: Mr. Grubbs.

By Mr. Grubbs:

Q. Mr. Waring, I am just a little confused on one phase of your testimony. Am I correct in understanding that you take no position about the level of class rates here under consideration?

A. That is right.

Q. Is it your position that if the Commission will just take your formula and use its own good judgment, that everything will turn out all right?

Mr. Reed: Nor, Mr. Chairman——

The Witness: I am afraid that doesn't express just what I am trying to express myself.

Chairman Aitchison: I think we understand his testimony. You don't need to condense it into a sentence, Mr. Grubbs.

By Mr. Grubbs:

Q. And yet isn't it true that you say that all railroad LCL rates are too low?

A. No, I say as a whole they are too low.

Q. They are too low?

A. As a whole they are too low.

Q. Do you take the position that the LCL rates in all territories are too low, as a whole?

A. Well, all the figures that I have seen—and I am not testifying as an expert on that, but all the figures I have [fol. 2943] seen show they are too low all over the country.

Chairman Aitchison: I think you are making him your witness, Mr. Grubbs.

Mr. Grubbs: If your Honor please, he testified that the LCL rates were too low; that is, the rail LCL rates.

The Witness: I did, yes.

By Mr. Grubbs:

Q. Isn't that true?

A. Yes.

Mr. Grubbs: I just wanted to know, your Honor, the particulars underlying that conclusion.

Chairman Aitchison: All right. Make it brief.

The Witness: I just based that on Dr. Edwards' testimony previously, in addition to my own knowledge.

By Mr. Grubbs:

Q. That applies to all territories, as I understand you, Southern territory, Southwestern territory and Official territory?

A. If Dr. Edwards' figures show that, that is my answer.

By Chairman Aitchison:

Q. It does or it doesn't? He is asking you whether it applies to all territories.

A. I understand Dr. Edwards' figures show——

Q. No, what did you mean when you answered the question? Do you mean it applies to all territories or are there any exceptions?

A. That all of the railroad less than carload rates——

Q. In all territories?

[fol. 2944] A. In all territories, are below fully allocated costs for handling.

By Mr. Grubbs:

Q. And it is your position that the Commission should increase them in this proceeding?

A. The less than carload rates of the railroads, yes, sir, definitely.

Q. Now, in the course of your testimony you said that the rates on canned fruits and vegetables were 35 per cent higher than the rates on flavoring syrup in the South, notwithstanding the fact that——

A. In less than carloads.

Q. Yes, in less than carloads. Now, I want to ask you if, in obtaining the rates which you did obtain to make that comparison, you examined the Southern class rate tariff or whether you confined your comparison simply to the exception?

A. Based entirely on the exceptions rating.

Q. Yes. You didn't examine the class rate tariff itself?

A. No, I didn't examine the class rate tariff.

Q. Now, I wonder if you won't correct a statement you made.

A. No, I don't correct it because I don't know it. I don't know that it is wrong.

Q. If you, after examining the tariff and if you find that you have made a mistake in the statement that you have here made to the Division, won't you undertake to correct it?

A. Well, I wouldn't object a bit in the world, but it seems [fol. 2945] to me that the shortest way to do it would be to tell the Commission.

Q. All right. Now, you made some statements indicating a willingness if not a desire to apply the railroad carload

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Mr. Reed: Mr. Chairman, would you mind asking if there is any more cross-examination?

Mr. Weeks: I have only one or two questions.

Chairman Aitchison: There are two or three witnesses here who find it imperative to get away this afternoon. They have been waiting for some time. We may have to

run overtime to accommodate them. We will try to let them go, even if it means cross-examination has to stand aside.

The Witness: I have my ticket bought, Mr. Chairman, to Washington on the 5:33 train. I just want to know whether to cancel it or not.

By Chairman Aitchison:

Q. 5:30?

A. 5:33. I have it already purchased. I can get down there from the hearing room in about 25 minutes.

Mr. Grubbs: I can get rid of you in a minute.

Chairman Aitchison: Suppose this cross-examination ends by 5 o'clock. Everybody put his questions accordingly.

Mr. Grubbs: Yes.

By Mr. Grubbs:

Q. I want to know if the motor carrier industry, in connection with its desire to apply the railroad carload minimum weights, is willing to have the condition established [fol. 2946] that the entire weight, that is the carload weight, will be moved on a single day from a single consignor, to a single consignee, on a single bill of lading?

A. Entirely willing to do that.

Q. I want to know if the motor carrier industry is willing to have a rule established in connection with the use of the carload minimum rates whereby, if you reduced your volume rating, you would, at the same time, increase your rate?

A. In other words, if we are—our objective is to meet railroad carload rates, minimum weight, we will say, 36,000 pounds——

Q. If you put in a minimum of 18——

A. And we put in a minimum of 24,000 pounds, we will say, if we would be willing to increase that railroad rate, have our rate higher than the railroad carload rate?

Q. That is right.

A. That has been an awfully tough problem before the industry.

By Chairman Aitchison:

Q. Is it a question that you can answer for the industry?

A. I would like very much to answer it. It must be qualified to some extent, Mr. Chairman. We would, of course,

be more than willing and I think it would be entirely proper to make our rates higher for a minimum of 24,000 pounds than the railroad rates for a minimum of 36,000 pounds; except that so long as we are prevented, if we are prevented, [fol. 2947] from meeting the railroad minimum and rate, the only way in many, many cases that we can get a share of the freight is to meet the exact railroad rate, regardless of minimum weight. There are innumerable instances, heavy movements of freight, most desirable truck traffic, where the minimum weight has no influence whatever on the routing of the freight. So that many times we must meet the railroad rate at our lower minimum weight.

Chairman Aitchison: Are you going to take the entire time, Mr. Grubbs?

Mr. Grubbs: No, sir, that is all.

Mr. Weeks: I will waive my questions.

Chairman Aitchison: Mr. McCollester.

By Mr. McCollester:

Q. Mr. Waring, I think it is generally accepted that in the case of the railroads, with the exception of New York, pier stations, and one or two other places, the usual rule is that in case of less than carload freight, the railroads have the burden of loading and unloading the freight and of transferring freight at transfer points, whereas in the case of carload freight, the freight is loaded into a car by the shipper at his expense, is unloaded at his expense and moves through without transfer. Now, the difference between the carload and less than carload ratings is, to a considerable extent, predicated upon that difference in the railroad service. My question is, is there a similar differ- [fol. 2948] ence in the motor carrier service as between truckload and less than truckload operations or shipments?

A. Well, your question is this, do we have the expense of loading truckload freight while the railroads do not have the expense of loading carload freight?

Q. That is——

A. We both have the expense of loading less than carload freight, less truckload freight.

Q. But is there a difference in service, so far as the truck carriers are concerned, between a truckload and a less than truckload shipment which would justify having different ratings, truckload and less truckload?

A. Mr. McCollester, I will give you the best answer I can make, and that is based on the information I have. The shippers probably load half of the truckload shipments, although the rates of the truckman include loading, but for their own convenience, the shippers load it. There are tremendous movements of freight by truck where the trailers are backed up to the shipper's loading platform and he never sees them again until he sends a tractor to load them up.

Q. That is not in accordance with the tariff.

A. But in your opening statement, you made a misstatement. The railroads do not load and unload cars, I mean the shippers do not load on the piers in New York; the railroads do that.

Q. I made the exception of New York.

[fol. 2949] A. I thought you were saying——

Q. Is it not a fact, then, that as far as the truckers propose to have different rates for larger unit shipments, than for smaller, it is entirely a matter of competition with the railroads?

A. Well, not entirely, no.

Q. Well, largely, isn't that so, rather than a difference in their service?

A. I don't like to put it that way at all. We would have truckload rates if there wasn't a railroad in the United States, substantially lower than less truckload. In fact, the truckload rates today average around half of the less truckload rates and you will find many truckers or many operators that will argue with you there is more money in truckload business than less than truckload business today because of the increased labor cost during the last five-year period.

Mr. McCollester: That is all.

Chairman Aitchison: You are excused, Mr. Waring. I hope you catch your train.

(Witness excused.)

Mr. Reed: Mr. Chairman, the next witness will be——

Chairman Aitchison: We are not going to take him today.

Mr. Reed: All he will do is read his statement.

Chairman Aitchison: These men have got to get away.

Mr. Reed: He has been here all week and he wants to get [fol. 2950] away.

Chairman Aitchison: We will see after we take these other gentlemen, whether there is any time left for him.

Mr. Umbarger, you wanted to make a correction?

CHARLES K. UMBARGER recalled.

Direct examination.

By Mr. Dyer:

Q. Mr. Umbarger, when you were on the stand this morning, Chairman Aitchison asked you if you were objecting to the eastbound rates that you pay on your traffic, and I believe your answer was no. Do you care to correct that answer?

A. That answer should have been yes. I misunderstood or I was so excited I didn't know what I was saying.

Q. That is why you are here in this proceeding, because you are objecting to those rates, is that correct?

A. That is right.

By Chairman Aitchison:

Q. And they are class rates?

A. They are class rates.

Q. Based upon the Official Classification rating?

A. Yes, sir.

Q. And upon what scale?

A. 4th and 5th class.

Q. Made how, laminated scale or what?

A. I am not a rate expert, I couldn't say. It is a class [fol. 2951] rate. It is published in the regular tariffs.

Chairman Aitchison: All right.

Mr. Bell: May I ask one question?

Chairman Aitchison: Yes, Mr. Bell. It has ot to be cross-examination on this.

Mr. Bell: What?

Chairman Aitchison: It has got to be cross-examination on this.

Mr. Bell: Cross-examination on this. Well, he says he objects to the outbound rate, as I understand it.

Chairman Aitchison: All right.

Mr. Bell: This has reference to his distribution.

Cross-examination.

By Mr. Bell:

Q. You have given a report to the newspapers since you have been here, haven't you?

A. No, sir.

Q. Well, is it true that for 40 years the Coleman Company here has turned out lamps and stoves to the four corners of the world where there are no gas pipe lines——

Chairman Aitchison: That was gone into.

By Mr. Bell;

Q. (Continuing:) —and no electric lines, shipped all over the world?

Chairman Aitchison: That was gone into on the official classification basis; that is the question. We have got to confine this to cross-examination. You are excused.

(Witness excused.)

[fol. 2952] Chairman Aitchison: All right, Mr. Tally.

G. F. TALLY was sworn and testified as follows:

Direct examination.

By Mr. Rynder:

Q. Mr. Tally, to expedite what you have to say as much as possible, let me inquire, are you from the traffic department of Swift & Company and are you representing that company in this proceeding?

A. Yes, sir.

Q. And have you some comments to make about the class rates here proposed, as you understand them, from Western Trunk Line territory?

A. Yes, sir.

Q. All right, proceed.

A. My name is G. F. Tally. As we understand the changes in class rates which are suggested by Mr. Jensen in his Exhibit No. 7, the fifth class rates from Chicago to New York and other Eastern territory would be somewhat in-

creased and the fifth class rates from points in interior Iowa and Missouri River cities would be substantially reduced. So far as class rate traffic generally is concerned, we express no opinion as to the propriety of this change. We believe, however, that there are certain reasons why such a change ought not to be applied to the rates on packing house products until after an investigation which will be [fol. 2953] limited to the rates on packing house products and which may give consideration to the many competitive factors which, over a period of years, have affected those rates. Such an investigation would probably also have to give some attention to the rates from Midwestern territory to the East on livestock. The livestock rates are commodity rates bearing no relation to the class rates and apparently would not be affected or changed by any order made in this proceeding.

Generally speaking, the packing house product rates are the fifth class rates, although they have gone slightly off that basis as a result of certain recent decisions of the Commission which have allowed general increases, such as Fifteen Percent Case, 1937-1938, 226 I. C. C. 746, and Ex Parte 148, decided in the spring of this year.

The relationship between the rates on packing house products from Chicago, interior Iowa cities, and the Missouri River cities to New York and other Eastern territory and the relationship between the packing house products and fresh meat rates and the rates on livestock from and to the same points have been the subject of many proceedings before this Commission and have been set at the present bases as a result of exhaustive investigation by the Commission in which it has undertaken to fix levels of rates that, as to these specific commodities, would be nondiscriminatory as between points of origin so far as the products are concerned and nondiscriminatory as between [fol. 2954] the rates on packing house products and fresh meats, on the one hand, and livestock, on the other. I shall refer only briefly to those cases. There were several around 1915 and 1916 which I need not mention at this time.

All of these questions were involved in the case of Morrell & Co. v. N. Y. C. R. R. Co., 104 I. C. C. 104, which is one of the landmarks in this long-standing controversy. In that case the Commission held that the fifth class rates on packing house products in Eastern territory were not

unreasonable. The packing house product rates from the Missouri River to the East were involved. While they were somewhat criticized by the Commission, no order was entered concerning them because it was stated that an adjustment of those rates alone, without changes from other points such as Wichita, Fort Worth, Oklahoma City, and so forth, was not desirable. This case was decided in 1925.

In Western Trunk Line Class Rates, 164 I. C. C. 1, decided May 6, 1930, the Commission prescribed joint through fifth class rates from Western Trunk Line territory to points in Official territory. The through fifth class rates so prescribed by the Commission from the Missouri River cities to Eastern territory were lower than the combination of rates on packing house products theretofore made up of commodity rates from the Missouri River cities or Chicago, plus the fifth class rates thence to Eastern territory, and [fol. 2955] the through fifth class rates thereupon became applicable on packing house products from the Missouri River cities to Eastern territory. However, through rates lower than the through fifth class rates continued to be applicable from the packing houses at interior Iowa points. This led to a series of cases before the Commission involving an adjustment of the packing house product and fresh meat rates from Interior Iowa points to the East as compared with Chicago, on the one hand, and the Missouri River cities, on the other hand. This dispute involved four extensive hearings and decisions by the Commission. They are: Packing House Products from Western Trunk Line Points, 197 I. C. C. 353, decided November 14, 1933; Packing House Products Eastbound from Western Trunk Line points, 206 I. C. C. 449, decided February 12, 1935; Swift & Co. v. New York Central Railroad Co., 220 I. C. C. 171, decided February 2, 1937; Fresh Meats from Iowa and Minnesota to the East, 227 I. C. C. 765, decided July 12, 1938.

Briefly, as a result of these cases the Commission prescribed the fifth class rates on packing house products from interior Iowa points to New York, with the exception of Austin, Minnesota, and prescribed arbitraries or differentials from interior Iowa points to the Mississippi River on fresh meat which, added to the rates east thereof, were found to remove the discrimination as between Chicago on the east and the Missouri River cities on the west.

[fol. 2956] Inherent in practically all of these cases were questions as to the relationship of the rates on livestock,

on the one hand, as compared with fresh meats and packing house products, on the other hand. That question was involved in the Morrell case above mentioned, and it was discussed at considerable length in the decisions of the Commission in Eastern Live Stock Cases of 1926, 144 I. C. C. 731, decided July 14, 1928, and 165 I. C. C. 277, decided July 8, 1930. The rates prescribed in the decision last cited are still in effect except for the general increases authorized in Ex Parte 123 and Ex Parte 148. The Commission found in those cases that the rates there prescribed would be nondiscriminatory as compared with the rates on fresh meats and packing house products which had been prescribed earlier in the Morrell case.

In Midwest Association of Meat Packers v. Alton Railroad Company, 220 I. C. C. 227, decided February 2, 1937, an attack was made by the complainants upon the level of the livestock rates from interior Iowa points and certain other Western Trunk Line points to Official territory. Those rates were made up of a combination of proportional rates only slightly lower than the local rates from Western territory to the Mississippi River or Chicago, plus proportional rates only slightly lower than the local rates from the Mississippi River or Chicago to the East. The Commission held that the rates so made were not unrea- [fol. 2957] sonable and dismissed the complaints, thereby leaving in effect this combination basis on livestock from Western Trunk Line territory, although it had prescribed rates substantially lower than the combination on packing house products.

The same situation as to livestock rates to the South existed at the time of the decision of the Commission in the recent Southern Live Stock Cases, I. & S. Docket No. 4779 and cases consolidated therewith, and the Commission likewise preserved that adjustment from Western territory to the South, although it prescribed joint through rates from Southern territory to Official territory.

We therefore have the somewhat peculiar situation from Western Trunk Line territory to the East that the packing house product rates are in many cases approximately the same as the livestock rates.

I believe that the class scale proposed by Mr. Jensen from interior Iowa and the Missouri River cities would result in packing house product rates substantially lower than the livestock rates. This would be an anomalous situ-

ation contrary to all bases heretofore prescribed by the Commission in other parts of the country and would be very much to the disadvantage of those having packing house plants in the East, such as Swift and Company and numerous other packers.

By Chairman Aitchison:

Q. You are reading a statement, aren't you?
[fol. 2958] A. Yes, sir.
Q. Do you have copies for the Bench and for counsel?
A. No, I do not.

Chairman Aitchison: You are supposed to have.

Mr. Rynder: There is just a very short additional amount, if I may apologize.

Chairman Aitchison: Go ahead. We can't carry, of course, these details in our head.

The Witness: For this reason we earnestly request the Commission, in case it shall substantially change the class rate adjustment from Western Trunk Line territory to Eastern territory in this proceeding, to insert a saving clause providing in substance that a change in class rates shall not authorize any change in the rates on packing house products from Western Trunk Line territory to the East. In view of the amount of time and consideration which has been given to that adjustment by the Commission in the past in the cases cited and in other cases, we believe it warrants an amount of time and consideration that could hardly be given to it in this class rate investigation. If such an adjustment is to be made in the packing house products rates, it is my thought that it should be made in a proceeding in which consideration shall also be given to the competitive rates upon livestock, and they are not involved in this proceeding. [fol. 2959] Therefore we ask that the packing product rates from Western Trunk Line territory be excepted from any order made in this proceeding.

In conclusion I might say that a very different situation exists with respect to the rates on fresh meats, packing house products and livestock from the South to Official teritory. From the South to Official territory, instead of keeping the livestock rates upon a combination basis, the Commission has recently prescribed joint through rates, I. & S. Docket No. 4779, much lower than the combination. As a result, the rates from the South to Official territory

on packing house products and fresh meats are very much higher than the rates on livestock. Indeed they are so high that we have filed a complaint alleging that they are unreasonable, I. C. C. Docket No. 28514, Neuhoff Packing Company v. Aberdeen and Rockfish Railroad Company. This case has not yet been heard. I merely mention it in order to point out that, so far as packing house products are concerned, there would not be the same objection to a readjustment of the rates from the South as from Western Trunk Line territory for several reasons, amongst which may be noted the fact that they are now much higher than the livestock rates and that they have not been the subject of serious consideration as to competitive conditions heretofore given by the Commission to the rates on these products from Chicago or Western Trunk Line territory.

Mr. Rynder: That is all.

[fol. 2960] Chairman Aitchison: Cross-examination? (No response.) There seems to be none. You are excused.

(Witness excused.)

Chairman Aitchison: Mr. Gilsten.

Mr. Norman: Mr. Gilsten has two exhibits that have been distributed.

CHARLES GILSTEN was sworn and testified as follows:

Direct examination.

By Mr. Norman:

Q. Mr. Gilsten, your name is Charles Gilsten, G-i-l-s-t-o-n?

A. G-i-l-s-t-e-n.

Q. What is the name of the company with which you are connected?

A. The Monarch Wine Company.

Q. Does that company operate a winery at Atlanta, Georgia?

A. Yes, sir, and one in New York.

Q. And one in New York?

A. Yes, sir.

Q. What is your position with that company?

A. Vice president and sales manager.

Q. When was your plant established at Atlanta?

A. 1936.

Q. Why was it established there?

A. To be adjacent to the fruit fields; to be in the heart [fol. 2961] of the fruit belt, to manufacture fruit wines.

Q. Fruit wines?

A. Yes, sir, out of peaches and blackberries.

Q. Out of what?

A. Peaches and blackberries.

Q. How do you get your raw material to your plant?

A. We harvest from the growers and we do our own harvesting on the blackberries, consisting mostly of wild blackberries. However, we do have now under cultivation several hundred acres of blackberries in connection with the Farm Security Administration.

Q. What means of transportation do you use in getting your fruit to your winery?

A. We use trucks.

Q. Trucks?

A. Trucking facilities.

Q. Now, how did you supply your eastern market—first, where do you market your output?

A. We try to market all over the United States.

Q. In what form is it shipped?

A. Pardon me, I didn't get that question.

Q. In what form is it shipped?

A. Tank cars, barrels and cases.

Q. Now, prior to the war and the resulting elimination of the ocean transportation, how did you serve the Eastern [fol. 2962] Trunk Line territory?

A. We shipped the fruits, we stored the fruits in cold storage and shipped them via steamship to New York, left the wine at that point and reshipped to the territories, the Eastern territories.

Q. Are you able to do that now?

A. No, sir, the coastwise steamers are off for the duration.

Q. Now, are you able to ship there by rail?

A. No, sir. In some territories, yes, but not in all.

Q. I am talking about Trunk Line territory.

A. No, sir, we are not. We can't compete.

Q. What is the basis of your rates to Trunk Line territory?

A. The basis into the trunk lines? The classification, you mean?

Q. Yes.

A. Out of the South?

Q. Yes, from Atlanta.

A. We have no basis. We operate on some exceptions to some cities, such as Cincinnati——

Q. I am talking about Trunk Line territory, now.

A. I didn't get your question clearly, sir.

Q. Suppose we refer to the exhibit. You have had prepared an exhibit showing your rates and the rates from New York to various points?

A. Yes, sir.

[fol. 2963] Mr. Norman: What is the number, Mr. Chairman?

Chairman Aitchison: 146.

Mr. Norman: 146.

(Exhibit 146, Witness Gilsten, marked for identification.)

By Mr. Norman:

Q. Now, Mr. Gilsten, will you look at that exhibit and tell us what is the basis for the rates there shown from Atlanta, Georgia, to the territory beginning at Baltimore and on down?

A. Fourth class.

Q. Fourth class?

A. Yes, sir.

Q. That is the rate that is published in the—is it obtained from the Official Classification?

A. Yes, sir.

Q. Now, what is your principal competition?

A. New York City.

Chairman Aitchison: Did he say fourth class?

Mr. Norman: Fourth class, yes.

Mr. McCollester: It appears to refer to exceptions there, rather than classification, in the tariff reference.

Mr. Norman: Well, the rates in Trunk Line territory are the fourth class rates and obtained from the classification.

Mr. McCollester: The tariff authorities there refer to the exceptions to the classification.

Mr. Norman: Oh, he shows a first class rate there, yes, [fol. 2964] but it is not the rate on which the commodity moves.

By Mr. Norman:

Q. The commodity moves on the fourth class rate, that is correct, isn't it?

A. Yes, sir, that is correct.

Q. Now, what is the basis for the rates of your New York competitor?

A. He moves on the established rates, classifications, on the Northern rates.

Q. That is the exceptions to the classification?

A. Yes, sir.

Q. Now, have you made any effort to secure a better adjustment from the rail carriers that serve you?

A. Yes, we have been working at it for years. We have been successful in some instances and in such territory as Ohio, we have been unsuccessful.

Q. Now, they did give you the Official classification basis to the Ohio River cities as shown on this exhibit?

A. Yes, sir.

Mr. Norman: In that connection, I wish to say that the figure 57 in the first line under Official territory should be 52, and the figure 95 in the left hand lower corner—right hand lower corner, should be 42.

Chairman Aitchison: New York to Boston?

Mr. Norman: That is your New York to Boston. I don't know how the 95 got there. 42 is right.

[fol. 2965] By Mr. Norman:

Q. Now, have you been able, where you were given this basis, which was the Official Classification basis, have you been able to compete and to ship?

A. Yes, sir, to such cities as Cincinnati, Indianapolis, St. Louis, we get business there and we have movement. Louisville also. We have movements going to those cities now.

Q. Do you move that by rail?

A. Yes, sir.

Q. Prior to the establishment of this basis, did you move anything by rail up there?

A. No, sir, we had to use our own trucks and in many instances it absorbed the differentials in the cost.

Q. Now, what basis do you seek?

A. We want the same classification and rate basis as the Northern carriers have—Northern territory have.

Chairman Aitchison: That is exceptions, I understand.

Mr. Norman: They do have exceptions, yes. What he seeks is the same classification.

The Witness: The same classification, that is right.

By Mr. Norman:

Q. And the same rates?

A. East of the Mississippi, we seek the same classification and the same rates.

Q. And if that is put in the classification, why, that is the way you would want it?

A. That would put us in a position to compete.

[fol. 2966] Q. Now, if you had that competitive basis or the same basis that obtains in Official territory, could you develop your industry in Georgia?

A. We have now approximately one million gallons' storage capacity that can turn out three million gallons of wine a year. We are only utilizing that to about a 50 per cent basis now. The possibilities are unlimited on wines and fruits out of Georgia.

Q. And you feel that you could compete if you were given a parity of rates?

A. Oh, we have proved that in every instance where we have received a parity of rates.

Q. Now, you advertise your commodity?

A. Yes, sir.

Q. Nationally?

A. Yes, sir.

Q. And you have here as an exhibit, No. 147, a copy of the advertisement——

Chairman Aitchison: No, that is part of 146.

The Witness: Yes.

Mr. Norman: I beg your pardon.

The Witness: It is attached to it.

By Mr. Norman:

Q. And that is just filed to illustrate the fact that you do undertake to do a national business?

A. Yes, sir.

[fol. 2967] Q. In competing in this territory north of the Ohio River, who fixes the market price?

A. The New York City wineries. They seem to make the prices for us and they have this differential in freight, which practically puts us out of the picture.

Q. It is just a question of when and where we can beat their price?

A. That is right. It is just a question of how much we want to lose.

Mr. Norman: That is all.

Chairman Aitchison: Cross-examine.

Cross-examination.

By Mr. McCollester:

Q. Mr. Gilsten, your wine, I understand, is fruit wine, not grape wine?

A. We have some grapes available and we make a very small quantity of grapes, but we call them table wines. They are not the fortifying wine. We manufacture only the light wines in Georgia.

Q. Does your fruit wine compete with grape wine?

A. No. We don't compete with grape wines.

Q. Is your wine sold as a bottle wine or is it sold in bulk only?

A. We sell it three ways: We sell it to the bottlers in tank cars that have facilities for unloading tank cars; to bottlers who can't handle tank cars, in barrels; and we sell [fol. 2968] to distributors, under our own label, to redistribute it in cases, but ultimately it reaches the public in bottles.

Q. And this kind of wine competes only with other fruit wines?

A. Only other fruit wines, yes, sir.

Q. It doesn't compete with California wines?

A. No, sir, not at all. In fact, I have shipped one carload to California.

Chairman Aitchison: You have answered the question.

The Witness: Excuse me.

By Mr. McCollester:

Q. Now, did you correctly answer your counsel when you said that you paid the fourth class rates?

A. Understand, now, I am not a rate expert. Our problem, of course, is meeting competition and facing rate

differentials. Now, you say fourth class—I said fourth class because I understand, for instance, as an example, under Cincinnati, first class is listed at $1.69. The present rate is 52. Therefore, I understand that is fourth class rate.

Q. Do you know whether your rates are class rates at all or are exceptions to class rates?

A. Do I know, do you say?

Q. Yes. Do you know the difference between a class rate and an exception to the classification?

A. I understand a class rate is a particular classification.

Q. Yes.

A. And an exception, or a change of rate is an item [fol. 2969] set up for immediate use.

Q. Well, do you know which kind of a rate it is that moves your product from Atlanta to Official territory?

A. I understand it is fourth.

Q. Is that by the classification or by exception, do you know? Did you prepare Exhibit——

A. Pardon me?

Q. Did you prepare Exhibit 146?

A. No, my traffic man did, in Atlanta. Our traffic department prepared this.

Chairman Aitchison: This is subject to check, Mr. McCollester.

By Mr. McCollester:

Q. Looking at page 2 of that exhibit, is the picture in the upper right hand corner of the building your original plant at Atlanta?

A. The artist sought or tried to show an expansion there. In other words, he showed a little building and then a new building, the larger building. But that does not represent the first building, no.

Q. When was the new building built?

A. A year ago last September.

Q. Do you still maintain a warehouse in New York City?

A. A winery.

Q. A winery?

A. Yes, sir, at Bush Terminal, Brooklyn.

[fol. 2970] Q. A winery is the place where you convert your fruit into wine, is that right?

A. That is right.

Mr. McCollester: That is all.

Chairman Aitchison: Anything further?

Mr. McCollester: May I just ask one other question:

By Mr. McCollester:

Q. Is there a different rate on your tank car shipments than on your package shipments?

A. Yes. Now, out of Atlanta we have a tank car rate to New York City of 79 cents, and if we tried to put it in barrels, it would cost us $1.21.

Q. Which are the rates that are shown on Exhibit 146?

A. Both of them.

Q. Which are the tank rates and which are the carloadings?

Mr. Norman: Carload rate.

By Mr. McCollester:

Q. Carload rate.

A. Some of these, I understand, provide for tank cars and some don't. I am not, offhanded, familiar with it.

Chairman Aitchison: It is marked "c-Specific Tank Car Rate."

Mr. McCollester: I see only one of those.

By Mr. McCollester:

Q. To what points do you ship in tank cars?

A. Those rates that have been adjusted recently carry the tank car rate. The rates that haven't been adjusted [fols. 2971-2972a] just carry the barrel rate.

Q. To what points do you ship in tank cars?

A. Any place in the United States that I can get business.

Mr. McCollester: That is all.

Chairman Aitchison: Anything further? (No response.) You are excused.

(Witness excused.)

Chairman Aitchison: I am sorry, we will not be able to take any more witnesses tonight because we are compelled, according to our understanding, to give possession of the room immediately.

Mr. Norman: Mr. Chairman, I don't think that exhibit was received. I now offer the exhibit.

Chairman Aitchison: Without objection, it is received.

(Exhibit 146, Witness Gilsten, received in evidence.)

Chairman Aitchison: We will adjourn at this time to 9:30 tomorrow morning.

(At 5:35 o'clock P.M. November 19, 1942, adjourned to 9:30 o'clock A.M. November 20, 1942.)

[fol. 2973]

Hotel Deshler,
Columbus, Ohio,
November 20, 1942.

Met, pursuant to adjournment, at 9:30 o'clock a.m.

Before Division 2 of the Commision

Hon. Clyde B. Aitchison, Chairman of the Commission, presiding; Hon. Walter M. W. Splawn, Commissioner; Hon. J. Haden Alldredge, Commissioner; and a Cooperating Committee of the National Association of Railway & Utilities Commissioners represented by Mr. John J. Murphy, South Dakota Public Utilities Commission; Mr. George McConnaughy, Public Utilities Commision of Ohio; and Mr. W. H. Scott, South Carolina Public Service Commission.

Present: Paul O. Carter, Examiner; W. J. Koebel, Examiner; T. Leo Haden, Examiner.

Appearances:

As heretofore noted and the following additional:

Warren H. Wagner, Investment Building, Washington, D. C., appearing for John Morrell & Co.; The Rath Packing Company; and George A. Hormel & Company.

[fol. 2974]

Proceedings

Chairman Aitchison: Shall we proceed. You may call your next witness, Mr. Reed.

Mr. Reed: Mr. Doud.

O. L. Doud was sworn and testified as follows:

Direct examination.

By Mr. Reed:

Q. Your name is O. L. Doud?

A. Yes, sir.

Q. You have prepared an exhibit which has been distributed to the parties in accordance with the Commision's plan of distribution, have you, Mr. Doud?

A. Yes, sir.

Mr. Reed: If the Commision please, may we have Mr. Doud's exhibit identified at this time.

Chairman Aitchison: 147.

(Exhibit No. 147, Witness Doud, marked for identification.)

By Mr. Reed:

Q. Mr. Doud, you have also prepared your testimony in statement form, have you not?

A. Yes, sir.

Q. And that statement has also been distributed, has it not?

A. Yes, sir. It was with the exhibit.

Q. With the exhibit.

A. Yes, sir.

[fol. 2975] Mr. Reed: If the Commission please, if there is no objection, I would like to ask leave *to ask leave* to have Mr. Doud's statement copied into the record by the reporter, down to the top of page 3 of the statement. Starting at page 3, he explains his exhibit, and I assume that the parties would want to hear that, if there is any question with regard to how the figures were compiled.

Chairman Aitchison: Very well.

(Mr. Doud's testimony is as follows:)

My present position is treasurer of The Silver Fleet Motor Express, Inc., and my residence is in Louisville, Kentucky. I have been so engaged for the past eight years, first as comptroller and later as treasurer, having direct supervision over the Accounting Department including statistics and cost studies. Prior to this experience

I devoted nine years to various public utilities, including telephone, gas and light and water—two years of which was with a public accounting firm which specialized in public utilities. During this nine years I acted as ledger clerk, accounting supervisor in several different sections, and Accounting Methods Clerk for the Illinois Bell Telephone Company of Chicago; Comptroller of the Southern Indiana Telephone & Telegraph Company; and Senior Utility Accountant for Herdrich & Boggs, Certified Public Accountants, Indianapolis, Indiana. Throughout this seventeen years I have handled the preparation of many [fol. 2976] cost studies and statistical exhibits for my testimony before the regulatory commissions in the States of Indiana, Ohio, Tennessee and Kentucky, and before the Interstate Commerce Commission.

As a result of action of "Special Committee of General Class Rate and Classification Investigation" of the American Trucking Associations, Inc., I was made Chairman of the Accounting Committee, charged with the responsibility of preparing a Traffic Survey, showing nationwide movement of general commodities handled by motor trucks.

The program was outlined and printed forms prepared during the months of September and October, 1940. Through an Accounting Committee composed of eleven accounting officers of motor carriers who planned to participate in the Traffic Survey, the work was begun in January, 1941.

My comments will be restricted to the work for which I was responsible, namely, the assembling and preparation of the Traffic Survey data. The program for the Traffic Survey involved five operations as follows:

1. Organizing Motor Carriers.
2. Gathering Traffic data—the Field Work.
3. Preparation of data on tabulation cards.
4. Density and value study of commodities.
5. Statistical computations and assembling of data.

Participating Motor Carriers. A brief summary of the preparation of this Traffic Survey is as follows:

[fol. 2977] We were able to obtain twenty-four Class I carriers which had the facilities to make this study. These carriers had operating revenues for the year 1940 of over $50,000,000, which indicates that a broad traffic sample was

obtained. These carriers were located in various parts of the country; ten generally used the East Classification, nine the South Classification and five the West Classification. The twenty-four carriers shown on Page I of my exhibit numbered 147 were classified by territories according to the location of their principal operations; however, all of them handled interterritorial traffic and each had some traffic moving under the three Classifications.

The typicality of the territorial grouping is further shown by a comparison of Class I motor carriers of property for the year 1940 with number of shipments included in the study as follows:

	Revenue-Year 1940		Shipments in Study	
Territory	Amount	%	Number	%
East	$238,158,219	78	206,253	68
South	41,048,906	13	64,300	21
Southwest	27,289,148	9	33,939	11
	$306,496,273	100%	304,492	100%

I believe the traffic sample is as representative as could be obtained at the time it was made.

Gathering Traffic Data—Field Work. Through meetings [fol. 2978] which I held in Washington, D. C.: New York City; Akron, Ohio; Detroit, Michigan; Atlanta, Georgia; Chicago, Illinois; Minneapolis, Minnesota; and Dallas, Texas, instructions concerning the preparation of the abstracts of freight bills were given to representatives from these 24 companies. A "freight bill abstract," shown on page II of the exhibit numbered 147 was prepared for each article on a freight bill included in the period covered by the Traffic Survey.

It was decided to analyze by classification items all shipments which moved during a test period of six days, one day for each week day, each week period within a month, and each bi-monthly period of the 12 months beginning September 1, 1939, and ending August 31, 1940. This latter date was the last day before the Southern Rail Exceptions, which involved changes in over 3,500 classification items, became effective. The dates were: September 29, 1933; November 25, 1939; February 19, 1940; April 23, 1940; June 4, 1940; and July 11, 1940.

Rate clerks were loaned by motor carriers in the various cities to each motor carrier participating in the Traffic Survey. This combined force of rate clerks analyzed each freight bill included in the dates above mentioned. Each classification article on every freight bill was given a code number.

The National Motor Freight Classification No. 5 was [fol. 2979] rearranged according to commodity groups, Known as "Generics," there being 774. Each generic group was further subdivided by each item rating in the Classification, there being over 10,000 items, each of which was given a code number.

Tabulation of Freight Bills. The unit freight bill abstracts were forwarded by motor carriers to American Trucking Associations, Inc., Washington, D. C., for reviewing and checking, after which tabulating cards were prepared by a crew of 25 key punch operators. All of the information shown on the unit freight bill abstract, was punched in a tabulating card shown on Page III of Exhibit No. 147.

Density and Value Data. Another staff of people, familiar with the classification of articles carried on an accumulation of density and value information for all items in the classification for which such data was available. The sources of this density and value information are set forth on Page III of the exhibit. The density and value information is made a part of the traffic analysis by commodities and is a part of Summary I, Section I, for l. t. l. traffic, and Section II for t. l. traffic.

Statistical Computations. After the 300,000 tabulating cards had been sorted according to commodity articles in the Classification, weight of shipment in pounds, and movement of shipment in miles, all of which was prepared separately for East, South and West Classification Terri- [fol. 2980] tories, the tabulated summaries were ready for the computing operators. Computations were made by a crew of calculating machine operators so as to show traffic information as follows:

1. Revenue in cents per hundred pounds by various groupings of traffic.
2. Revenue per thousand-pound mile.
3. Per cent of First Class charges.
4. Average revenue per shipment.

5. Average haul in miles.
6. Average pounds per shipment.
7. Average number of pieces per shipment.

Summary I, Section I, Traffic Analysis by commodities of shipments under 10,000 pounds was prepared by a different group of people and the column headings are slightly different. In this summary the only commodities shown are these shipments which number more than one hundred for both class and commodity rated traffic, disregarding the number of minimum shipments. The reason for this was to obviate the necessity of too voluminous an exhibit. In this summary, page one, there is a blank space in the fourth space from the top in the column headed "Percent of Weight—East." The figure .024 should be inserted.

By Mr. Reed:

Q. What page is that, Mr. Doud, of your Exhibit 147?

A. Page 1, past the explanatory statement; the first [fol. 2981] numbered page.

By Chairman Aitchison:

Q. Do you mean, the Arabic numbers?

A. Pardon me?

Q. Page 1, the first numbered page, of the Arabic numbers?

A. Yes, sir.

Mr. Reed: Page 1, the first numbered page.

The Witness: Yes, sir. In the blank space, the fourth one down, under the main heading "Percent of Weight" in the column headed "East."

By Mr. Reed:

Q. The figures .024 should be inserted in there.

A. That is right.

Mr. Reed: Do all of you gentlemen have that? Under the heading "Percent of Weight," in the column headed "East," the blank space now appearing fourth from the top of the column should have inserted in it the figures .024.

The Witness: That is right. Now, there is another correction that I would like to make, also.

By Mr. Reed:

Q. Another correction?

A. Yes, sir.

Q. Where is that?

A. On page *VII*, to the left,—Roman seven.

Chairman Aitchison: Roman seven?

The Witness: Yes.

Mr. Reed: Arabic, you mean, do you not?

The Witness: No, sir, I mean going back, or going to [fol. 2982] the left, in the explanatory statement.

Mr. Reed: Oh, yes.

The Witness: In the subheading—or rather, under the subheading of "Truckload," in the half-heading to the left there.

Mr. Reed: Yes.

The Witness: Following the word "Commodity," in the second column of figures, you will find a percentage figure of 47.6.

Mr. Reed: What should it be?

The Witness: The present percentage figure appearing there is a typographical error, because it should have been typed as 44.6. It was not detected when it was printed, when the proof was read.

Mr. Reed: Very well. Does everyone have that, now? If so, you may continue.

The Witness: In Summary I, Section II, Analysis by commodities of shipments over 10,000 pounds, the only commodities shown are those whose total weight for class or commodity rated traffic individually was equal to or greater than 1/10 of one per cent of the total of all volume traffic.

Inasmuch as the five motor carriers, located in the Western Territory were not able to complete their unit freight bill abstracts in sufficient time to be included in the first tabulation, Summary 6 is shown as a separate page [fol. 2983] numbered 116 of this exhibit.

By Mr. Reed:

Q. Right at that point, Mr. Doud: the details for the Southwestern carriers were not included in the exhibit because of lack of time; is that correct?

A. Yes, sir, that is true. They started their preparation 8 months after the other carriers, and by reason of the

shortage of time, in completing their preparation, that detail was not available for including in the exhibit.

Q. However, you do have the cards, is that correct?

A. Yes, sir.

Q. And they can be made available?

A. Yes, sir.

Q. Proceed.

A. Summary I, Section I, Traffic Analysis by Commodities for Less Truckload was supplemented by Appendix A, Supplementary Statement Showing Revenue Statistics which appears in pages 117 to 128, both inclusive.

For further information I would refer you to the summaries of traffic data set forth in the exhibit.

The Table of Contents of the exhibit shows page reference for the respective summaries.

Q. Have you anything further?

A. Well, I might just add, I think that the explanatory statement, pages I to VII, covers very thoroughly the abstract of information covered in detal in the more than [fol. 2984] 100 pages following; and the Table of Contents clearly sets forth the page references to the summaries.

Q. Now, Mr. Doud, did you prepare or cause to be prepared, under your own immediate supervision and direction, your Exhibit 147?

A. Yes, sir. The exhibit was prepared with the aid of the Accounting Committee over various sections of the country; and all of the work was done with my knowledge, and a great deal of it under my direct supervision, and part of it by myself personally.

Q. Is the exhibit true and correct, then, to the best of your knowledge and belief?

A. Yes.

Mr. Reed: If the Commission please, at this time I offer Mr. Doud's Exhibit 147 for identification, in evidence.

Chairman Aitchison: Without objection, it is received.

(Exhibit No. 147, Witness Doud, received in evidence.)

Mr. Reed: That is all with the witness on direct, and he is now tendered for cross-examination.

Chairman Aitchison: Cross-examine. (No response.) There seems to be no cross-examination. You are excused.

(Witness excused.)

Mr. Reed: That is all for the American Trucking Associations, if the Commission please. Thank you.

Chairman Aitchison: Mr. Robert H. Smith.

[fol. 2985] Robert H. Smith was sworn and testified as follows:

The Witness: My name is Robert H. Smith. I live in Duluth, Minnesota. I am appearing here today for the Duluth Chamber of Commerce, which is a nonprofit organization having some 900 members. Among its other functions it protects the welfare of the shippers and receivers of Duluth, from a transportation standpoint. I have been Traffic Commissioner of the Duluth Chamber of Commerce, and Traffic Manager of the Duluth Board of Trade, since March of this year, 1942, prior to which time I was Assistant Traffic Commissioner of the Duluth Chamber of Commerce for some four and a half years. My traffic experience goes back to 1928, and includes some 7 or 8 years in the Traffic Department of the Chicago Association of Commerce. I have prepared an exhibit which I would like to have identified at this time in record order.

Chairman Aitchison: 148.

(Exhibit No. 148, Witness R. H. Smith, marked for identification.)

The Witness: Pages 2 and 3 of the exhibit compare the populations of cities of 5,000 and over in the states of North Dakota, South Dakota, Minnesota and Wisconsin, with the population of Duluth-Superior. In contrast with most of the cities enumerated here, it will be noted that Duluth-Superior have suffered a decline in population; that decline, [fol. 2986] however, having been principally in the population of the city of Superior, Wisconsin. On page 4 of the exhibit there is set forth a survey that was taken by the Duluth Chamber of Commerce, indicating the diversity of the various businesses located in Duluth. Pages 5 and 6 of the exhibit are excerpts from a publication of the Bureau of Census, indicating that while the number of wholesale establishments in Duluth has increased, 1939 over 1929, the actual sales of such establishments have declined by some $70,000,000. Pages 7 and 8 of the exhibit are excerpts from another Bureau of Census publication, indicating the manufacturing situation at Duluth. What witness Townsend said in his testimony as to the all-rail rates

between the Twin Cities, and Eastern Territory, and Chicago, applies with the same force to Duluth. The Duluth rates, as have the Twin Cities rates, to the East have been governed for many years by the Official Classification. This is undoubtedly due to the fact that these all-rail rates were constructed and made with a view to the existence of water competition on the Great Lakes, and the lake rates have always been governed by the Official Classification. It is the position of the Duluth Chamber of Commerce that rates to Duluth, as well as to the Twin Cities, should be governed by the Official Classification from all of Official Territory; and that the Central Territory border should be extended [fol. 2987] to include Duluth and the Twin Cities. We would have no objection to the extension of such a line to the Minnesota-North Dakota border, and to the Missouri River south. Pages 9 and 10 of my exhibit describe the Duluth-Superior harbor and the facilities there located. On page 10 is a table showing the principal ports of the United States, their rank, and their total tonnage. I call your attention to the fact that the Duluth-Superior harbor is second in tonnage only to the port of New York. On page 13 of the exhibit is a breakdown of the tonnage for the Duluth-Superior harbor by receipts and shipments so that the exact commodities handled may be readily ascertained. Now, as to the question of water rates: unfortunately at the present time water service on the Great Lakes is curtailed to a very marked degree. On July 14 of this year——

Chairman Aitchison: Well, that is sufficient, Mr. Smith.

The Witness: All right.

Chairman Aitchison: We know about that.

The Witness: Very well, sir. On page 21 of the exhibit is a history of the lake-rail rates from 1913 down to the present time. It shows all six classes. All this adjustment is described in your report in I. & S. 3662. I see no purpose in discussing it further here. The position of the Duluth Chamber of Commerce is substantially this, that if no marked change is made in the all-rail adjustment from [fol. 2988] Trunk Line and New England Territories to Western Trunk Line Territory, we ask that the present differentials be preserved. If, however, there is a very decided change in the level of such rates, we think that this Commission might properly make a finding similar to Finding 11 in the Western Trunk Line Class Rate Case, asking

the carriers to prescribe lake-and-rail rates, giving consideration to the value of service and to the economy of water transportation. It has been suggested that the equated mileage theory of making rates be applied to the lake-and-rail rates between Western Trunk Line Territory and Trunk Line and New England Territories. We do not favor such an adjustment. In the first place, that theory has no basis in this record. We have no water costs before us at the present time. The same contentions were before the Commission in I. & S. Docket No. 3662. That theory is based only on the element of cost, and disregards the value of service rendered. Then also it denies the ports the benefit of their geographic location. That concludes my statement on direct.

Chairman Aitchison: You offer your exhibit, do you?

The Witness: Yes, Mr. Chairman; at this time I wish to offer my Exhibit 148 in evidence.

Chairman Aitchison: Without objection, it is received.

(Exhibit No. 148, Witness R. H. Smith, received in evidence.)

Chairman Aitchison: Cross-examine. (No response.) [fol. 2989] There appears to be no cross-examination. You are excused.

The Witness: Thank you, sir.

(Witness excused.)

Chairman Aitchison: Mr. Wagner.

Mr. Wagner: I would like to recall Mr. Hart at this time, if the Commission please, to introduce one exhibit.

E. L. Hart recalled.

Direct examination.

By Mr. Wagner:

Q. You are the same Mr. Hart who was previously sworn and testified in this proceeding, are you?

A. Yes, sir.

Q. Have you prepared a four-page exhibit, containing certain clarifications and corrections in connection with your prior exhibits?

A. Yes.

Q. Is the exhibit true and correct, to the best of your knowledge and belief?

A. Yes, sir.

Mr. Wagner: If the Commission please, at this time we offer Mr. Hart's Exhibit 149 in evidence.

Chairman Aitchison: Without objection, it is received.

(Exhibit No. 149, Witness Hart, received in evidence.)

Mr. Wagner: That is all.

Chairman Aitchison: Are there any questions?

[fol. 2990] (No response.) Apparently not. You are excused.

(Witness excused.)

Chairman Aitchison: Mr. Hillyer.

Mr. Hillyer: If the Commission please, I have one exhibit that I would like to submit at this time.

Chairman Aitchison: Do you have a witness?

Mr. Hillyer: Yes, I have a witness available, your Honor, but I do not know whether I will need him or not. May I ask to have marked for identification at this time Mr. Maurer's Exhibit 150.

(Exhibit No. 150, Witness Maurer, marked for identification.)

Mr. Hillyer: This exhibit, your Honor, consists of a two-page stencilled memorandum entitled "200 Mileage Block; correction of testimony of T. C. Maurer, transcript page 1797. "It was prepared in answer to a question asked of Mr. Maurer by Mr. Smelker. Mr. Maurer is just outside in the anteroom; he was previously sworn as a witness; the exhibit was prepared either by him or under his immediate direction; and unless request is made that Mr. Maurer be recalled, I offer the exhibit in evidence at this time.

Chairman Aitchison: Without objection, it will be done.

(Exhibit No. 150, Witness Maurer, received in evidence.)

[fol. 2991] Chairman Aitchison: East Tennessee Border Traffic Association.

Mr. Hanlon: Yes, sir.

CHARLES V. HANLON was sworn and testified as follows:

The Witness: My name is Charles V. Hanlon, and my address is 140 Cedar Street, New York City, New York, at which place I am employed by the traffic organization conducted by Mr. Milton P. Bauman. I have been engaged in transportation work and in participation in rate cases before the Interstate Commerce Commission since 1920. I have made a close study and investigation of industrial, commercial and transportation conditions in the Tennessee area served by this association, and in the outer territory which provides sources of raw materials and markets for finished products for east Tennessee manufacturers, jobbers and retailers.

Chairman Aitchison: Was your statement distributed?

The Witness: This prepared statement was distributed last night.

Chairman Aitchison: Do you gentlemen want to hear the statement read, or have you had an opportunity to go over it? Does anybody want to hear it read?

Mr. Neal E. Williams: Nobody.

Chairman Aitchison: Who was speaking?

Mr. Williams: I was. I said "Nobody."

[fol. 2992] Chairman Aitchison: If there is no objection, it can be copied into the record as if Mr. Hanlon had testified to it orally. Is that all right, Mr. Hanlon?

The Witness: Yes, sir.

(The balance of Mr. Hanlon's testimony is as follows:)

I assisted in the preparation of the evidence submitted for the East Tennessee Border Traffic Association, in Docket No. 26488, East Tennessee Border Traffic Association v. Akron, C. & Y. Ry. Co., 214 I. C. C. 316.

The East Tennessee Border Traffic Association. The East Tennessee Border Traffic Association is a voluntary organization of municipalities, chambers of commerce, and shippers and receivers of freight, located in northeastern Tennessee. Retailers, wholesalers and distributors located in the area are in competition with retailers, wholesalers, and distributors located at Bristol, Virginia-Tennessee, Bluefield, Virginia, Bluefield, West Virginia, and Roanoke, Virginia, among other points, with respect to property moving from points in Official Classification territory and which is subsequently sold in the common market contained in au

area embracing northeastern Tennessee, southwestern Virginia and western North Carolina.

Manufacturers located in the area draw the great preponderance of their raw materials, supplies and equipment from points in Official Classification territory and endeavor [fol. 2993] to market their manufactured products in Official Classification territory, in competition with manufacturers and producers located within Official Territory.

The membership of the East Tennessee Border Traffic Association includes the following: At Johnson City, Tennessee,—Sells Lumber & Manufacturing Co.; Gulf Refining Co.; Summers Hardware & Supply Co.; General Shale Products Corporation; and Johnson City Foundary & Machine Co. At Elizabethton, Tennessee,—Elizabethton Chamber of Commerce. At Port Rayon, Tennessee,—American Bemberg Corporation, and North American Bemberg Corporation. At Kingsport, Tennessee,—Kingsport Grocery Co.; Kingsport Electric Co.; The Mead Corporation; Kingsport Press, Inc.; J. Fred Johnson & Co.; Kingsport Merchants Association; Holliston Mills of Tennessee, Inc.; Slip-Not Belting Corporation; Penn-Dixie Cement Corporation; Kingsport Improvement Co.; and Tennessee Eastman Corporation.

The Territory Concerned. The specific territory embraced by the membership of the East Tennessee Border Traffic Association includes the cities of Johnson City, Kingsport, Elizabethton, Port Rayon, Bluff City, Piney Flats and Watauga. These points and this territory may be referred to, collectively, as the Johnson City group.

The ayerage distance between Bristol and these points, by rail, is 22.6 miles and, by highway, 20.4 miles.

[fol. 2994] The Tennessee points are in Southern Border territory within comparatively short distances of Bristol and St. Paul, Virginia, gateways between Official and Southern territories. Bluff City, Piney Flats, Watauga and Johnson City are 11, 16, 20 and 25 miles, respectively, south of Bristol on the line of the Southern Railway Company. At Bristol, the Southern connects with a line of the Norfolk & Western extending southwestwardly from Walton, Virginia, on the main line. Johnson City is also served by the Carolina, Clinchfield and Ohio Railway and the East Tennessee and Western North Carolina Railroad Company. Kingsport, on the Clinchfield, is 42.5 miles west of Bristol, over a route in connection with the Southern via Frisco, Ten-

nessee. The Clinchfield connects with the Norfolk & Western at St. Paul, Virginia, 51 miles north of Kingsport, and with the Chesapeake and Ohio Railway Company at Elkhorn City, Kentucky, 94 miles north of Kingsport. Kingsport is intermediate to Johnson City, 26 miles north thereof, on the routes via St. Paul and Elkhorn City. Elizabethton, 9 miles east of Johnson City, is approximately 82 miles south of Bristol on a branch line of the Southern extending from the latter point to Mountain City, Tennessee, and is also served by the East Tennessee and Western North Carolina. Port Rayon, on the last-named line, between Johnson City and Elizabethton, a mile west of the latter point, is 23 [fol. 2995] miles from Bristol over a route in connection with the Southern via Elizabethton. The East Tennessee and Western North Carolina is a standard-gage line between Johnson City and Elizabethton.

Between Bristol, Virginia-Tennessee, and St. Paul, Virginia, on the one hand, and all points in Official Classification territory on the other, there applies the standard basis of rates prescribed by the Interstate Commerce Commission in the Eastern Class Rate Investigation, I. C. C. Docket No. 15879. Generally speaking, the average distance between the Johnson City Group and points in Official Classification territory is somewhat less than 104 per cent of the average distance between Bristol, Virginia-Tennessee, and points in Official Classification territory are representative of the level of rates within and between points in New England, Trunk Line, and Central Freight Association territories. The distance between the Tennessee area and points in Official territory is less than 104 per cent of the distance between Bristol and points in Official Classification territory. Of the transportation service between points in the Tennessee area and points in Official Classification territory, more than 96 per cent, measured by distance, is performed by carriers operating in Official Classification territory, and less than 4 per cent by carriers operating in Southern territory.

The Johnson City group area in eastern Tennessee has [fol. 2996] received separate and distinct consideration for the purpose of rate making, for the past twenty-five years. The principles which govern the policy of rate making from and to the Johnson City group area are the result of specific consideration in the form of and in the course of proceedings before this Commission.

No further consideration of freight-rate levels, particularly as applicable to or from the Johnson City group, could do justice to the Johnson City group without full consideration and understanding of the reasons underlying the litigation above referred to and the findings of fact and conclusion upon which the existing freight-rate structure from and to the east Tennessee points are based.

The proceedings referred to are as follows: Johnson City, Tennessee, Chamber of Commerce v. Southern Ry. Co., 46 I. C. C. 527; 50 I. C. C. 605; 64 I. C. C. 709; 192 I. C. C. 315; Southern Class-Rate Investigation, 100 I. C. C. 513; Rates on Bristol and Norton Lines of Norfolk & W. Ry., 192 I. C. C. 315; East Tennessee Border Traffic Iss'n v. Akron C. & Y. Ry. Co., 214 I. C. C. 316; 231 I. C. C. 453; 229 I. C. C. 20; and Summers Hardware & Supply Co. v. Baltimore & O. R. Co., 232 I. C. C. 22. The former so-called Johnson City case, 46 I. C. C. 527, et cetera, is referred to as Docket 7865.

History of Class Rates from Central Freight Association and Buffalo-Pittsburgh Territories. I. C. C. Docket No. [fol. 2997] 7856 was a complaint case attacking the class rates from Official Classification territory to Johnson City, Tennessee, alleging preference and prejudice and asking that Johnson City, Tennessee, be placed on a parity with Bristol, Virginia-Tennessee. Prior to the original decision (46 I. C. C. 527), July 17, 1917, rates from Official territory to Johnson City, Tennessee, were made on a combination over Bristol, Virginia-Tennessee. As stated in this decision, since 1893, rates to Bristol, Virginia-Tennessee, had been based on Official Classification ratings to the Virginia Cities and the following arbitraries over the Virginia Cities:

1	2	3	4	5	6
12	10	8	7	6	5.

and governed by the Southern Classification, but not exceptions thereto.

Rates to Johnson City, Tennessee, were made by adding the local distance rates, governed by the Southern Classification, for the 25-mile haul from Bristol, Virginia-Tennessee, which were as follows:

1	2	3	4	5	6
26	24	22	18	16	12

An example of comparison of rates to Bristol, Virginia-Tennessee, and Johnson City, Tennessee, at that time is as follows:

From Chicago, Illinois, to Bristol, Virginia-Tennessee: [fol. 2998] 1—84; 2—72; 3—55; 4—39; 5—33; 5—27.

From Chicago, Illinois, to Johnson City, Tennessee: 1—110; 2—96; 3—77; 4—57; 5—49; 6—39.

From Cleveland, Ohio, to Bristol, Virginia-Tennessee: 1—66.5; 2—57; 3—43.5; 4—31; 5—26; 6—21.

From Cleveland, Ohio, to Johnson City, Tennessee: 1—92.5; 2—81; 3—65.5; 4—49; 5—42; 6—33.

From Pittsburgh, Pennsylvania, to Bristol, Virginia-Tennessee: 1—86.5; 2—73; 3—55.5; 4—39; 5—34; 6—26.

From Pittsburgh, Pennsylvania, to Johnson City, Tennessee: 1—112.5; 2—97; 3—77.5; 4—57; 5—50; 6—38. In the above mentioned case, the Commission held the rates to Johnson City, Tennessee, not to be unreasonable, but that a Section 3 violation existed to the extent that rates to Johnson City, Tennessee, exceeded rates to Bristol, Virginia-Tennessee.

The carriers complied with the order by increasing the class rates to Bristol, Virginia-Tennessee, to the then-existing Johnson City, Tennessee, rates, but some commodity rates involved were not changed. The case was reopened as to the commodity rates and further decision entered on June 17, 1918 (50 I. C. C. 605). Complainants were dissatisfied and the case was again reopened and a further order was entered on December 12, 1921 (64 I. C. C. 709), in which the Interstate Commerce Commission held [fol. 2999] that the carriers' method of equalizing Johnson City and Bristol was not justified and required the publication of an arbitrary or proportional first class rate of thirty (30) cents (governed by Southern Classification, but not exceptions thereto) from Walson and St. Paul, Virginia, to Johnson City, Tennessee, and Bristol, Virginia-Tennessee, with the lower classes to be related as follows:

1	2	3	4	5	6
100	86	76	64	52	43
A	B	C	D		
29	35	27	24		

and rates to intermediate points to be graded down with the lessening distance to destination.

These rates were published as arbitraries in the East-bound Billing Guides and after the ten per cent reduction of July 1, 1922, they were as follows:

To Bristol, Virginia-Tennessee, and Johnson City, Tennessee: 1—27; 2—23.5; 3—20.5; 4—17; 5—14; 6—11.5; A—7.5; B—9.5; C—7; D—6.5

To Kingsport, Tennessee: 1—23.5; 2—20.5; 3—18; 4—15; 5—12; 6—10; A—7; B—8; C—6.5; D—5.5,

These arbitraries continued in effect without change until I.C.C. Docket No. 13494 rates were published effective January 15, 1928.

[fol. 3000] An example of the rates to Kingsport, Tennessee, from representative C.F.A. points prior to January 15, 1928, follows:

From Chicago, Illinois. Base point: St. Paul, Virginia.

(1) (2).

	1	2	3	4	5	6
To	139	121.5	91.5	63	53.5	44.5
From	23.5	20.5	18	15	12	10
Through	162.5	142	109.5	78	65.5	34.5

From Cleveland, Ohio. Base point: St. Paul, Virginia.

(1) (2).

	1	2	3	4	5	6
To	106.5	93	79	48	40.5	33.5
From	123.5	20.5	18	15	12	10
Through	130	113.5	88	63	52.5	43.5

From Columbus, Ohio. Base point: St. Paul, Virginia.

(1) (2).

	1	2	3	4	5	6
To	106.5	93	70	48	40.5	33.5
From	23.5	20.5	18	15	12	10
Through	130	113.5	88	63	52.5	43.5

From Detroit, Michigan. Base point: St. Paul, Virginia. (1) (2).

	1	2	3	4	5	6
To	108	94	70.5	48.5	41	34
From	23.5	20.5	18	15	12	10
Through	131.5	114.5	88.5	63.5	53	44

[fol. 3001] (1)—Rates to St. Paul, Virginia, governed by Official Classification and Exceptions thereto (Agent Jones' Freight Tariffs Nos. 130 and 218 Series).

(2)—Rates from St. Paul, Virginia, governed by Southern Classification and Exceptions thereto (N.&W. Ry. Eastbound Billing Guide I.C.C. No. 8194).

On page 710 of the Interstate Commerce Commission's report in Docket No. 13494 (100 I.C.C. 513) it was stated that the basis of class rates therein approved was intended to supersede all adjustments theretofore made and orders would be entered modifying all outstanding unexpired orders with the exception of the order entered in the Johnson City Case (64 I.C.C. 709). Consequently no order was entered modifying or vacating orders in that case.

As the rates prescribed under I.C.C. Docket No. 13494 (100 I.C.C. 513) were maximum rates, it was necessary to publish such rates from and to Kingsport and Johnson City, Tennessee, and at the same time maintain the rates to Johnson City and Kingsport as ordered in I.C.C. Docket No. 7865. This was done later by publishing these Virginia Cities combinations as through rates in Section 3 of Agent Jones' Tariff 450 series to alternate with the Docket No. 13494 rates.

Examples of the comparison of the Docket Nos. 7865 and 13494 rates as of January 15, 1928, to Kingsport, Tennessee, [fol. 3002] are as follows:

From Chicago, Illinois:

	1	2	3	4	5	6
Docket 7865 (1)	162.5	142	109.5	78	65.5	54.5
Docket 13494	174	148	122	96	78	70

From Cleveland, Ohio:

	1	2	3	4	5	6
Docket 7865 (1)	130	113.5	88	63	52.5	43.5
Docket 13494	150	128	105	83	68	60

From Columbus, Ohio:

	1	2	3	4	5	6
Docket 7865 (1)	130	113.5	88	63	52.5	43.5
Docket 13494	133	113	93	73	60	53

From Detroit, Michigan:

	1	2	3	4	5	6
Docket 7865 (1)	131.5	114.5	88.5	63.5	53	44
Docket 13494	155	132	109	85	70	65

(1)—Rates shown under I.C.C. Docket No. 7865 are matched class to class.

As Bristol, Virginia-Tennessee, has always been considered as an Official Classification territory point via the N. & W. Ry., it was involved in I.C.C. Docket 15879 (164 I.C.C. 314) and rates thereunder were published to be effective December 3, 1931. However, the rates as published were lower than the prescribed rates due to the fact that the [fol. 3003] Official territory carriers used the Appendix E scale for the short-line miles rather than adding the Appendix I arbitraries for branch lines as prescribed. This had the effect of putting in the same level of rates which applied generally throughout Official Classification territory, whereas, before, the class rate level was higher than applied generally in Official Classification territory.

These I.C.C. Docket No. 15879 (164 I.C.C. 314) rates to Bristol, Virginia-Tennessee, were suspended in I.&S. Docket No. 3660 and at the same time Docket No. 7865 was reopened for further hearing, both cases being joined and ultimately decided on one report (192 I.C.C. 315), April 10, 1933. In this report, the suspended class rates to and from Bristol, Virginia-Tennessee, were found justified and the previous order in I. C. C. Docket No. 7865 was modified to provide that rates from Central and Buffalo-Pittsburgh ter-

ritories to Johnson City, Tennessee, would be prejudicial and unreasonable to the extent that they exceeded rates to Bristol, Virginia-Tennessee, by differences greater than the following amounts, subject to Southern Classification:

Class	1	2	3	4	5	6	7	8	9	10	11	12
Cents	8	7	6	4	4	3	3	2	2	2	2	1

The southbound rates from Central and Buffalo-Pittsburgh territories, pursuant to the modified order in the Johnson City case, were made effective June 24, 1933.

[fol. 3004] This brings the history of the so-called southbound adjustment down to the time of filing of the complaint in East Tennessee Border Traffic Association *v.* Akron, C. & Y. Ry. Co., Docket 26448. That proceeding will be discussed further on in the testimony.

The class rates between the Tennessee points and points in Trunk Line and New England territories and northbound from the Tennessee points to Buffalo-Pittsburgh and Central territories were not embraced in the Johnson City case, with the result that, following the publication of rates pursuant to the modified order in the Johnson City case, just described, the rates between the Tennessee points and Trunk Line and New England territories, and northbound to Buffalo-Pittsburgh and Central territories, were on a materially higher level than southbound class rates from Buffalo-Pittsburgh and Central territories, based upon the scale of differentials ranging from 8 cents, at first class, to one cent, at twelfth class, over the rates to Bristol.

History of Class Rates to Central Freight Association and Buffalo-Pittsburgh Territories. The class rates from Johnson City and Kingsport, Tennessee, to Central Freight Association territory prior to the publication of the Docket No. 13494 (100 I.C.C. 513) rates, as effective January 15, 1928, were made on combination of local or proportional rates to and beyond St. Paul, Virginia, governed by [fol. 3005]. Southern by Southern and Official Classifications, respectively.

The basing class-rate scale in effect prior to January 15, 1928, governed by Southern Classification and Exceptions thereto, as shown in Notes A and 41 of tariff, from Kings-

port, Tennessee, to St. Paul, Virginia (for beyond) was as follows:

1	2	3	4	5	6
36.5	34.0	31.0	25.0	22.5	17.0

A	B	C	D
17.0	18.5	14.0	14.0

the use of which resulted in the following through class rates, if matched class to class with the proportional class rates from St. Paul, Virginia, governed by the Official Classification and Exceptions thereto, as per Agent Lowry's I.C.C. No. 151:

To Chicago, Illinois: Base point, St. Paul, Virginia.

	1	2	3	4	5	6
To	36.5	34.0	31.0	25.0	22.5	17.0
From	126.0	110.5	87.5	60.0	51.5	42.5
Through	162.5	144.5	118.5	85.0	74.0	59.5

To Cleveland, Ohio. Base point, St. Paul, Virginia.

	1	2	3	4	5	6
To	36.5	34.0	31.0	25.0	22.5	17.0
From	106.5	93.0	70.0	48.0	40.5	33.5

[fol.3006]

Through	143.0	127.0	101.0	73.0	63.0	50.5

To Columbus, Ohio. Base point, St. Paul, Virginia.

	1	2	3	4	5	6
To	36.5	34.0	31.0	25.0	22.5	17.0
From	106.5	93.0	70.5	48.5	41.0	34.0
Through	143.0	127.0	101.5	73.5	63.5	51.0

To Detroit, Michigan. Base point, St. Paul, Virginia.

	1	2	3	4	5	6
To	36.5	34.0	31.0	25.0	22.5	17.0
From	106.5	93.0	70.5	48.5	41.0	34.0
Through	143.0	127.0	101.5	73.5	63.5	51.0

The tariff authority for the rates from Kingsport, Tennessee, to St. Paul, Virginia, is Carolina, Clinchfield & Ohio

Railway Tariff No. 6, I.C.C. No. 22, and from St. Paul, Virginia, to destinations shown, Agent O. E. Lowry's Tariffs I.C.C. Nos. 146 and 147. The northbound combination rates were higher, generally, than those then applicable on southbound traffic.

Subsequent to the establishment of Docket No. 13494 rates, the Virginia Cities combination provided for in Section 3 of Agent Jones' Freight Tariff No. 450 series applied between and the northbound rates were the same as the Section 3 rates shown in the history of southbound rates.

This situation was brought about as follows: In the Third Supplemental Report of the Interstate Commerce [fol. 3007] Commission in Docket No. 13494 (128 I.C.C. 567), finding 17 (e), the Commission found that rates from or to North or South Carolina would be prejudiced to said points to the extent they exceeded rates made by combining the local class rates within Official territory to and from Virginia Cities with the proportional or basing rates between such Virginia Cities and points in North and South Carolina named in Agent J. J. Cottrell's Tariff I.C.C. No. 616. As Agent Cottrell's Tariff I.C.C. No. 616 named rates southbound only from the Virginia Cities it was the intent of the carriers to publish these Virginia Cities combinations in Section 3 to apply southbound only. In this section there were to be published the proportions or arbitraries from St. Paul and Norton, Virginia, (southbound) as ordered by the Commission in Docket No. 7865. Section 3 of the original tariff 450 series was printed in accordance with the above interpretations, *viz.*: Basing rates from *from* Central Freight Association to Virginia Cities and arbitraries as shown in Eastbound Billing Guides, and proportional rates as named in Agent Cottrell's Tariff I.C.C. No. 616 beyond.

The question as to the interpretation of finding 17 (e) was brought before Commissioner Eastman by the North Carolina Corporation Commision and Commissioner Eastman ruled that such finding should be construed to mean that rates ordered in said finding were to apply in both [fol. 3008] directions, or between St. Paul, Virginia, and Kingsport, Tennessee, viz.:

Classes	1	2	3	4	5	6
Rate	23.5	20.5	18	15	12	10

A	B	C	D
7	8	6.5	5.5

as governed by the Southern Classification.

The rates as published under Docket No. 13494, with the exception of the alternative application of Docket No. 15879 rates and arbitraries as published in Agent Jones' Freight Tariff No. 490, I. C. C. No. 2455, were the same as the southbound rates. Examples, matching class for class, from Kingsport, Tennessee, to a few representative Central Freight Association destinations, are as follows:

To Chicago, Illinois:

	1	2	3	4	5	6
Basis (1)	174	148	122	96	78	70
Basis (2)	162.5	142	109.5	78	63.5	54.5

To Cleveland, Ohio:

	1	2	3	4	5	6
Basis (1)	150	128	105	83	68	60
Basis (2)	130	113.5	88	63	52.5	43.5

To Columbus, Ohio:

	1	2	3	4	5	6
Basis (1)	133	113	93	73	60	53

[fol. 3009]

Basis (2)	130	113.5	88	63	52.5	43.5

To Detroit, Michigan:

	1	2	3	4	5	6
Basis (1)	155	132	109	85	70	62
Basis (2)	131.5	114.5	88.5	63.5	53	44

(1)—Docket No. 13494 rates per Section 1 of tariffs.

(2)—Virginia Cities combination per Section 3 of tariff.

Tariffs: Agent B. T. Jones' Freight Tariff No. 450-B, I. C. C. No. 2607.

Agent R. A. Sperry's Freight Tariff No. 15-A, I. C. C. No. 208.

History of Class Rates to and From Trunk Line and New England Territories. Following the Commission's

decision in Southern Class Rate Investigation, 100 I. C. C. 513, and pursuant to reconsideration of the basis to be observed in the establishment of interterritorial class rates, the carriers established rates between the eastern Tennessee points and points in Trunk Line and New England territories, based upon the Appendix Q-1 formula therein.

Due to the pendency of the Eastern Class Rate Investigation, and Bristol being a point within Official territory, no concurrent revision was made in the rates between Bristol and points in Trunk Line and New England territories until some time after the rates resulting from the [fol. 3010] Southern Class Rate Investigation were made effective. In the interim, the published rates to and/or from Bristol in some instances were higher on corresponding classes than the applicable rates to and from eastern Tennessee. It was not until May 1, 1933, at which time rates to and from Bristol were established pursuant to I. & S. No. 3660, that uniformity in the basis and level of the rates to and from Bristol was obtained. The basis and level approved in I. & S. 3660 for application between Bristol and points in Trunk Line and New England territories is exactly the same as the basis and level approved in the same proceeding, for application between Bristol and points in Central and Border territories, and for the construction of maximum reasonable rates from such Central and Border territory points to Johnson City by the addition of the scale of class-rate arbitraries beginning with 8 cents at first class, hereinbefore referred to.

The following is representative of the class-rate situation referred to, the classes being matched:

From Baltimore, Maryland, to Bristol, Virginia-Tennessee:

1	2	3	4	5	6
104	88	73	52	36	29

From Baltimore, Maryland, to Johnson City, Tennessee:

1	2	3	4	5	6
140	119	98	77	63	56

From Hagerstown, Maryland, to Bristol, Virginia-Tennessee:

[fol. 3011]

1	2	3	4	5	6
99	84	69	50	35	27

From Hagerstown, Maryland, to Johnson City, Tennessee:

1	2	3	4	5	6
135	115	95	74	61	54

From New York, New York, to Bristol, Virginia-Tennessee:

1	2	3	4	5	6
125	106	88	63	44	34

From New York, New York, to Johnson City, Tennessee:

1	2	3	4	5	6
163	139	114	90	73	65

From Harrisburg, Pennsylvania, to Bristol, Virginia-Tennessee:

1	2	3	4	5	6
106	90	74	53	37	29

From Harrisburg, Pennsylvania, to Johnson City, Tennessee:

1	2	3	4	5	6
145	123	102	80	65	58

From Binghamton, New York, to Bristol, Virginia-Tennessee:

1	2	3	4	5	6
130	111	91	65	46	36

From Binghamton, New York, to Johnson City, Tennessee:

[fol. 3012]

1	2	3	4	5	6
178	151	125	98	80	71

From New Haven, Connecticut, to Bristol, Virginia-Tennessee:

1	2	3	4	5	6
135	115	95	68	47	37

From New Haven, Connecticut, to Johnson City, Tennessee:

1	2	3	4	5	6
187	159	131	103	84	75

The foregoing rates were governed by the Official Classification when to and from Bristol, and by the Southern Classification when to and from Johnson City.

The East Tennessee Border Traffic Association Case.

I. C. C. Docket No. 26488 was a complaint case attacking the rates, including class rates, between the Johnson City group points and points in Official territory. The complainants therein are substantially the same parties on whose behalf this statement is submitted. Pursuant to the complaint, the Commission held that the class rates between Johnson City and points in Official territory were unreasonable to the extent that they exceeded through rates subject to the Southern Classification and exceptions thereto, published as single amounts, determined for first class by adding 44 cents to the first-class differential shown in Column A of Appendix C of the report for the distances [fol. 3013] north of Bristol, the rates for the other classes to be determined by the uniform Southern class-rate percentages.

As to class rates between Bluff City, Watauga, Piney Flats, Port Rayon, Elizabethton and Kingsport, on the one hand, and points in Official territory on the other, the Commission held that the rates were unreasonable to the extent that they exceeded the corresponding rates prescribed for application between Johnson City and points in Official territory, except that in instances where the latter rates were based upon distances over lines south and east of Walton, the rates between Kingsport and points in Official territory were unreasonable to the extent that they exceeded through rates subject to the Southern Classification and exceptions thereto, published as single amounts, determined for first class by adding 52 cents to the first-class differentials shown in Column B of Appendix

C of the report for the distances north of Bristol, the rates for the other classes to be determined by the uniform Southern class-rate percentages.

The application of the prescribed formula via Bristol resulted in first-class rates from Johnson City generally 8 cents and for Kingsport 11 cents over the Bristol first-class rates. The formula applied via St. Paul to and from points north and west thereof would result in rates that are substantially the same as result from the application of the formula via Bristol.

[fol. 3014] It was further held that the grouping of all the Tennessee points at the Johnson City rates, via Bristol, would be reasonable, except that Kingsport need not be grouped with Johnson City in those instances where the Johnson City rates will be based upon distances over lines south and east of Walton.

It was further held that the Tennessee points would be subject generally to undue prejudice of the differences between their rates and the Bristol rates were to exceed differences such as result from the prescribed class-rate adjustments.

The prescribed class rates were published generally effective November 2, 1936, but subject only to the Southern Classification. The former class rates were continued in effect for application in connection with the Classification exceptions and certain commodity column rates. On November 5, 1936, the new class rates were made subject to a limited number of the exceptions and, to permit a further study of the application of the exceptions, the effective date of the order was extended to February 3, 1937. Subsequently, the defendants made the new rates applicable in connection with Classification exceptions providing ratings which are the same as, or higher, in relation to first class, than ratings on the same articles in Official territory. The new rates, pursuant to the decision in the East Tennessee [fol. 3015] Border Traffic Association case, are presently in effect generally between the Tennessee points and Official Classification territory.

Rates on Iron and Steel Articles. Pursuant to the decision and order of the Commission in the former Johnson City case requiring a parity in the Bristol and Johnson City rates, rail carriers provided a rate of 47.5 cents per 100 pounds on iron and steel articles from Pittsburgh to both Bristol and Johnson City. This rate continued in effect

to both points until the further report in Rate Structure Investigation, No. 17000, Part 6, 155 I. C. C. 517.

In establishing rates in accordance with the above decision, a rate of 37 cents from Pittsburgh to Bristol was provided, such rate reflecting the distance from Pittsburgh to Bristol over the short-line route. This 27-cent rate continued in effect until May 15, 1931, on which date it was increased to 38 cents to reflect the distance from Pittsburgh to Bristol over the N. & W. route via Walton. Despite the former parity in the rates on iron and steel articles from Pittsburgh to Bristol and Johnson City, resulting from the order of the Commission in the Johnson City case, no revision was likewise made in the Pittsburgh-Johnson City rate.

Pursuant to the amended order in the Johnson City case, 192 I. C. C. 315, the rate on iron and steel articles from [fol. 3016] Pittsburgh to Kingsport and Johnson City became 46 cents, composed of the fifth-class rate of 43 cents from Pittsburgh to Bristol and a sixth-class arbitrary of 3 cents as required by the amended order referred to. Within Official territory, the rates prescribed in Docket 17000, Part 6, closely approximate 30 per cent of first-class. Thirty per cent of the first-class rate from Pittsburgh to Johnson City, in effect pursuant to the decision in the East Tennessee Border Traffic Association case, is 39 cents. In Summers Hardware & Supply Co. v. Baltimore & O. R. Co., 232 I. C. C. 22, the Commission held that 39 cents would be a maximum reasonable rate to both Johnson City and Kingsport and properly related to the Bristol rate, in view of the circumstances which made the latter rate 38 cents.

The Commercial and Industrial Situation. The testimony of jobbers, wholesalers and manufacturers in the Johnson City group area, as to competition with Official territory points, is abstracted in the report of the Commission in the East Tennessee Border Traffic Association case, at pages 322 and 323. Having actively participated in that case, I am fully familiar with the record therein. Since that time, having had direct contact and familiarity with the activities of the membership of the East Tennessee Border Traffic Association, I am in a position to state that the character of inbound and outbound traffic to and [fol. 3017] from the east Tennessee area, as well as the competitive situation with localities having the benefit of

the Official territory level of rates, is the same now as when the East Tennessee Border Traffic Association case was decided. The Johnson City group area is located in Border territory, immediately south of Bristol, Virginia-Tennessee. Comprehensive territorial class-rate proceedings heretofore instituted by the Interstate Commerce Commission have resulted in rates being prescribed which, of necessity, could not give adequate or complete attention to particular locality situations. For example, in its report in Southern Class-Rate Investigation, supra, the Commission, speaking of the Johnson City case, stated:

"In that case the relationship between Johnson City and Bristol, Virginia-Tennessee, was in issue. The situation is an unusual one, since Bristol has been treated, with respect to rates to and from points in Official territory, to some extent as a point in that territory, and to some extent as though it were located in Southern territory. The distance between the two cities is but 25 miles, and to many points in Official Territory the distance from Johnson City is no greater than the distance from Bristol. While it is possible that some modification of our order in the Johnson City case, supra, ought to be made in harmony with the general class-rate readjustment herein approved, we do not feel that such a modification ought to be made [fol. 3018] upon the record in this proceeding, particularly in view of the fact that the rates between Official Territory points and Bristol are not in issue."

However, the instant proceeding, as we understand it, is all-embracing, including interterritorial, as well as intraterritorial, class rates. Furthermore, the increasing use of percentage or column rates directly related to the class-rate scales, in lieu of commodity rates, lends an importance to this proceeding which was not true of the territorial class-rate proceedings heretofore before this Commission.

Other Transportation Factors. Submitted herewith is an exhibit consisting of four sheets in addition to the cover. May I have the exhibit marked for identification at this time with the next number in record order.

Chairman Aitchison: 151.

(Exhibit No. 151, Witness Hanlon, marked for identification.)

The Witness: Sheet 1 of Exhibit No. 151 for identification is a map showing the geographical location of the east Tennessee border points, particularly with relation to Bristol. This sheet also shows the distances between Bristol, Tennessee, and the east Tennessee border points.

Sheet 2 of the exhibit shows the principal routes to the east Tennesseee border points, that is, the routes through [fol. 3019] Elkhorn City and St. Paul.

Sheet 3 of the exhibit is a schedule of the American Airlines, Inc., showing Bristol, Johnson City and Kingsport referred to as the tri-cities. This schedule is reproduced from the schedules carried in the Official Guide. The three cities named use a common airport, which was specifically designed and located for such common use. The latter, we believe, is evidence worthy of consideration for the purpose of portraying the close association of these east Tennessee points and Bristol for all transportation purposes. Additionally, Kingsport, Johnson City, Elizabethton and Bristol observe a common standard of time. In Standard Time Zone Investigation, No. 10122, decided October 15, 1941, this latter fact is shown. In that proceeding, while Kingsport technically would not be included in the Eastern Time Zone, the City of Kingsport supported the proposal to extend the Eastern Time Zone to include that community. In connection therewith, the Commission had occasion to again refer to the fact that the cities of Kingsport, Johnson City, Elizabethton and Bristol constitute a social, economic and industrial unit in eastern Tennessee. That they have a common airport, that they compete commercially in the same areas, that they all observe Eastern Time, Bristol for all purposes in accordance with the outstanding order of the Commission, and the other three communities under local ordinances. As a result of the Time Zone Investigation referred [fol. 3020] to, the Commission found no occasion to bring about any change in this situation and, in effect, sanctioned the continuance of the common time standard at all of the east Tennessee points, on the basis of that prevailing at Bristol.

Sheet 4 of the exhibit is a map showing the various territories under the proposed Jensen formula. The only evidence in the nature of rebuttal which we have to present is in connection with the proposed territorial boundary as proposed by the Jensen formula. The Jensen formula would draw the territorial boundary north of Kingsport and John-

son City and would entirely separate the east Tennessee border territory and Bristol. The line of demarcation in connection with the Jensen formula is arbitrary and, in so far as we have been able to determine, represents no transportation standards.

The Johnson City case originated over twenty-five years ago, was first decided July 17, 1917, (46 I.C.C. 527) and since then has been reconsidered at least three times, 50 I.C.C. 605, 64 I.C.C. 709 and 192 I.C.C. 315; and, in a more broadened aspect, has been treated in the decision in the East Tennessee Border Traffic Association case. The rates flowing from the latter case, as to the particular Johnson City group, reflect the principle established through the twenty-five years or more of litigation referred to, that [fol. 3021] differences in level between interterritorial rates and intraterritorial rates (particularly in this instance, local rates within Official territory) should be no greater than the difference in transportation conditions between the two territories warrants.

Numerous and various rate-making theories undoubtedly will be proposed and advocated during the course of this proceeding but, based upon the facts before this Commission since the date of the original decision in the Johnson City case, in 1917, and the sound principles which underly the decision in that case as well as the East Tennessee Border Traffic Association case, it is our position that practical considerations must here supersede theory. It is further our position that no freight-rate structure affecting the Johnson City group would or could be sound if it did not reflect the experience and enlightenment resulting from the proceedings originally instituted in 1915.

Request for Findings. It is the position of the East Tennessee Border Traffic Association that the existing freight rates, based upon comprehensive consideration and records, should not be disturbed and we respectfully request the Commission to so hold.

At this time, if the Commission please, I would like to offer my Exhibit 151 in evidence.

Chairman Aitchison: Without objection, it is received.

[fol. 3022] (Exhibit No. 151, Witness Hanlon, received in evidence.)

Chairman Aitchison: Cross-examine.

Mr. Norman: I have a question or two, please.

Cross-examination.

By Mr. Norman:

Q. Mr. Hanlon, the particular section which you are representing is enjoying at the present time rates to Official Territory upon a substantially better basis than other sections of the South; that is correct, is it not?

A. Yes.

Q. As I understand the concluding portion of your statement, you do not object to the rest of the South getting a more favorable adjustment, such as you have; is that correct?

A. We do not object, Mr. Norman, but after answering your question that way, I would like to clarify my answer a little further, if I may.

Q. All right, sir.

A. The direct answer to your question is "No." Now, I would like to add this, that we would prefer, it would be our preference, to better our situation, or our position, if possible, with respect to the Official Territory level of rates; but if, however, there is to be an adjustment such as would follow the Jensen formula which is shown on sheet 4 of my exhibit, with certain sections of the country taking a higher basis than the Official Territory level of rates, then we would prefer to maintain the status quo, and have the rates remain as they are, rather than have the rates put into a [fol. 3023] straitjacket, where we will have to work under such a formula, for example, as Finding 27 of the Southwestern case. In other words, if there are going to be different levels of rates in different sections of the country, we would very much prefer the present adjustment, with a better relationship than we have today to Official Territory, if possible.

Q. But supposing now, that you were able to obtain an adjustment which would result in uniform classifications and rates throughout the territory. Would you then object to that?

A. Throughout which particular territory?

Q. Well, say, throughout the territory, as far as your interests are concerned, east of the Mississippi River.

A. That is, now, if we had a uniform rate——

Q. Yes.

A. —with Official Territory?

Q. Yes, sir.

A. Well, that would better our position in comparison with the Official Territory rate level, and we would have no objection to that whatsoever, no, Mr. Norman.

Mr. Norman: That is all.

Chairman Aitchison: Is there any further cross-examination?

Mr. James R. Bell: Just one question, please.

By Mr. Bell:

Q. Mr. Hanlon, would you have any objection to that if [fol. 3024] it were on a basis similar to Finding 27 in the Consolidated Southwestern Cases?

A. We would have an objection to that, yes, sir, to the extent that we would prefer the present situation. We would prefer the present rates to such a finding.

Mr. Bell: That is all.

Chairman Aitchison: There seems to be no further cross-examination. You are excused.

(Witness excused.)

Chairman Aitchison: Mr. Ribe.

Mr. Ribe: I am ready to go forward, Mr. Chairman.

Chairman Aitchison: Have you been sworn in this proceeding heretofore?

Mr. Ribe: No.

A. J. Ribe was worn and testified as follows:

The Witness: My name is A. J. Ribe. I live in Birmingham, Alabama. I have two exhibits, if the Commission please, which I desire to have marked for identification at this time.

Chairman Aitchison: 152 and 153.

The Witness: My first exhibit, which will be No. 152, is the bound exhibit; and the second exhibit, 153, consists of loose sheets.

Mr. McCollester: You do not mean that literally, do you, Mr. Ribe—loose sheets?

[fol. 3025] The Witness: No.

Mr. McCollester: You mean, the larger sheets, bound together at the left-hand side.

The Witness: Yes.

Mr. McCollester: Without a cover.
The Witness: That is right.

(Exhibits Nos. 152 and 153, Witness Ribe, marked for identification.)

The Witness: In my Exhibit No. 152 for identification I have nineteen sub-exhibits which are identified with letter prefixes. Since the distribution of this exhibit I have discovered that the number 148 was left off of the title page, immediately after the words "Ex Parte." I have only been able to add that number on the fifteen copies that have been given to the Commission, but not those that have gone to the other parties. My specifications are set forth, beginning at page 2 and continuing on through page 7. On page 2, under Item 1, I have indicated my membership in certain organizations, in connection with my qualifications. As to the first one listed there, the first organization, which is the Alabama Iron & Steel Shippers Conference, I was instructed by that organization to merely enter an appearance and take no part in this proceeding. As to the third organization listed, Southeast-Southwest Shippers Conference; under existing conditions there has been as yet to opportunity to have [fol. 3026] a meeting of the membership; so I felt it best to testify simply for myself, and permit that organization to adopt my testimony, if it so desired, after it hear it. The fourth organization listed, which is the Cast Iron Pressure Pipe Institute, I will testify for when I come to the matter of cast iron pipe, but my testimony, as far as that organization is concerned, will be limited entirely to cast iron pipe. Beginning on sheet 3, under Item 7, I have listed 60 shippers that employ me as traffic manager, or consulting traffic manager, and I am testifying for myself in that capacity. All of these shippers are either small or only moderately large. Certainly, none of them can be characterized as large corporations. I am not at the present time, and never have been, in the pay of a large corporation, except possibly during 1911, when I worked a short time for the company indicated opposite Item 5 on Sheet 3.

The purpose of my testimony here is in defense of the present Southern rate structure. I shall deal with Southern rates and Southern situations only as far as they are within my knowledge. I shall not touch on a rate or a situation west of the Mississippi River. Because of the conditions existing in my organization, under which, since May, I have

lost two men to the armed forces, I have of necessity had to take a number of shortcuts, which I will point out as I come [fol. 3027] to them, and will therefore be able only to hit the high spots, so to speak.

With respect, first, to the Florida arbitrary situation, I am taking no position either for or against the proposal to cancel those arbitraries. I have no shipper in Florida arbitrary territory, but all of my shippers do ship into that territory; and should the arbitraries be removed, they will of course get reductions to the extent that the arbitraries are removed, provided that the basic scale is not regraded, to reflect the arbitraries for the long distances.

Now, beginning with my B-subexhibit, which is on page 8 of the main exhibit, I have, as a matter of convenience, listed the major Class Rate Cases which have been handled by this Commission; and frankly, I think that I made a mistake by putting in the Consolidated Classification Case, because that, strictly, was not a class rate case. This statement was prepared by me in August of 1940, and I have not revised it since that time. I call your attention to page 10, Items 8 and 9, which show that in those major Class Rate cases, including the Classification case referred to, the Commission, up to August of 1940, had rendered 47 reports, containing 2674 pages of text. Following on page 10 I have shown a partial list of the collateral cases, that is, cases growing out of the General Class Rate Investigations; and I want to emphasize [fol. 3028] again, if the Commission please, that this is only a partial list.

By Chairman Aitchison:

Q. Are we to understand, Mr. Ribe, that the Commission had no classification or class rate cases before it prior to 1919?

A. I am very sorry, Mr. Chairman, but I could not hear all of your question.

(Question read.)

A. That the Commission had no classification, or class rate case——

By Chairman Aitchison:

Q. Yes, prior to 1919. That appears to be the first one that you show in the exhibit.

A. Oh, no, Mr. Chairman. That was merely to indicate the cases that reflected the present classification structures in the territories. I did not go back and further than that.

Q. Do you mean in the South?

A. No, sir, I do not mean only in the South; I mean in the South, and Southwest, in Official Territory and Western Trunk Line Territory. Those are the cases—the major cases that I have listed.

Q. Well, let me see if I get you straight, now. Take the old Iowa Cities Cases, that Commissioner Clark, or Commissioner Prouty—I have forgotten now which one it was—handled. Inasmuch as they have been superseded by the Western Trunk Lines proceedings, you would not list those old Iowa Cities Cases, would you?

[fol. 3029] A. No, I would not, Mr. Chairman, that is correct. I did not list here any of the old cases. The purpose of this portion of the exhibit is merely to show that, as far as the present class rate structure east of the Rocky Mountains is concerned, the Commission is responsible for that structure,—and may I add that I think personally they have done a very good job. In my sub-exhibit C, which is on page 13 of the main exhibit, I have reproduced merely as a matter of my own convenience, the mandate which this Commision received from the Congress. In my sub-exhibit D, which begins at page 14 of the main exhibit, I have reproduced a letter written by the Tennessee Valley Authority, only for the purpose of referring to the next to the last paragraph, wherein it is stated that the Authority is having a study made of the traffic flow. I assume that the study referred to is that which is found, beginning with Table 2 on page 3 of Mr. Spottswood's Exhibit No. 76. If that is the case, then I do not think that it shows what it purports to show, and I want, Mr. Chairman, to analyze that study, to show that you cannot take total figures and reach any conclusion therefrom. In the first place,—and this study was made for 1940—the exhibit shows that the tons originated in the South and West exceed those originated in Official Territory states by 75,391,000 tons, or 32 per cent. If I understood the witness correctly, that is supposed to [fol. 3030] cover the extent to which the North draws raw materials out of the South. I have reworked that study to include the Southern states only, and my study is shown on page 16 of this exhibit. For the purpose of my study, I have used the same Southern states as were used by witness

Spottswood. I call your attention to the fact that in the study,—and this is on all carload traffic, limited to the Southern states—the percentage goes from 32 per cent to 22 per cent. Then I call your attention to the fact that when I pull out the Kentucky traffic, the balance, which is supposed to be an unfavorable balance, immediately jumps into the other column. In other words, instead of being an outbound balance, it becomes an inbound balance. After that exhibit was prepared I realized that, as to Kentucky, I probably should have only pulled out the Kentucky coal traffic; so, beginning with line 16, I have shown separately the Kentucky coal traffic from the other traffic. Now, this study of mine shows that the result of characterizing total figures as favorable or unfavorable is to consider the enormous amount of coal which moves from Kentucky into other territories as an unfavorable traffic balance for the South. Also in Table 2, Exhibit 76, the totals of Group-5 manufactures and miscellaneous are compared in the same manner, showing, as a result, that the terminations in the South and West exceed the originations by 8,137,000 tons. [fol. 3031] I have forgotten the percentage. I have reworked that group for the Southern states, and my study is shown on page 17 of my exhibit. When the study is limited to the South, the unbalance of this particular group is cut more than half, but, again, no conclusion can be reached from such total figures. To assist the Commission, in an effort to make a proper study of traffic flow, I have prepared my second exhibit, No. 153, which I would now like to refer to. However, before I go to the next exhibit, I would like to ask that the net balance shown on page 17 of my Exhibit No. 152 for identification, be noted. Then we go to page 4 of my Exhibit 153 for identification, Item 840; and going to the very last column, it will be noted that the two net balances are practically the same, namely, 4,000,000 tons, which indicates to me at least that it makes no difference as to whether we use the regional statistics for the South, or the state statistics. Certainly, that is true as to the Group 5 commodities.

Now, I am not in a position to discuss all of the commodities that are dealt with in my Exhibit No. 153 for identification, but I do want to point just some of them to the Commission. I have taken Items 70 and 71, hay and straw. The balances here are inbound, and certainly are unfavorable from the viewpoint of the South. This is the only

place, I may say, if the Commission please, in connection [fol. 3032] with my Exhibit No. 153 for identification, where I propose to discuss freight rates, and I do so merely to show just how utterly impossible it is to unify the rates without hurting the Southern shipper. This happens to be an extreme case, with regard to hay and straw. The column ratings are 20, carload, in the South; 32.5-K in Official Territory, and 25—there is some suffix there, but I have forgotten for the moment just what it is—interterritorially. The reason, of course, for these letter suffixes is that either in Ex Parte 115 or Ex Parts 123, flat increases were authorized, necessitating the setting up of separate columns.

Now, if we take the rating of 20, and multiply it by 139, and the index of 100, and multiply it by 32.5, and then add the results, with what do we come out? Well, we come out with levels of index 100 in the South, 116 in Official Territory, and 125 from Official Territory to the South. Now, it is absolutely impossible to bring those levels together, without narrowing the spreads against the Southern shipper.

The next item that I want to go to is tobacco, leaf tobacco, which is an important raw material. Here we keep in the South all but 13 per cent of the production. The next item is cotton, a very important raw material; and the amount of this raw material which is brought into the South is amazing. It amounts to 66 per cent of our originations. [fol. 3033] I might say at this point, if the Commission please, that I am using 1941 in my Exhibit No. 153 for identification, for my own convenience, because it is rather difficult to follow these lines clear across the page.

I come next to Item 11, the Cotton Linter group. Here the unbalance is outbound, and from a raw material standpoint, is unfavorable. Those commodities are peculiar to the South, and if other territories use them at all, they have got to come to the South for them.

Going next to Item 100, Cottonseed, a raw material, the unbalance is favorable; in other words, the movement is inbound. As to Item 101, Cottonseed Meal and Cake, the movement is outbound to the extent of 21 per cent of tons originated. That is an essential product, and it seems to me, if the rates are so fixed as to stop that movement, why, the North can use soya bean cake and meal.

By Mr. Norman:

Q. May I interrupt you right there, Mr. Ribe, to ask you what you mean by that last remark—"If rates are so fixed as to stop that movement"?

A. I will answer that question by saying this, Mr. Norman, that it is not clear to me as to just what rates you are advocating. I go next to Item 121, Bananas. The balance here is outbound, and in my opinion is favorable; that is, favorable to the Southern railroads. If the traffic does not move through the Southern ports into other territories, it [fol. 3034] will move through ports in other sections.

Now, as to the other commodities in Group 1, Products of Agriculture, there is some seasonal crosshaul; as, for example, citrus fruits moving from the West to the South in one season, and in the opposite direction another season. Taking the group as a whole, the net balance is inbound, and is equivalent to 15 per cent of the originations. If we pull out the cotton, however, that unbalance becomes 8 per cent. Now, I find that the entire net balance can be accounted for by four groups—or rather, three groups, namely, Wheat, Item 10; Flour, Item 50; and Mill Products, Item 61. As a matter of fact, if we leave cotton in this group, and pull out the three commodities that I have just enumerated, we have a balance between the originations and the terminations.

Now, when we come to Group 2, Animal Products, here there are 11 items on which the traffic balance is outbound, and 11 on which the traffic balance is inbound. I call your attention to Item 210, Fresh Meats, and to the fact that the balance here is outbound, and is definitely favorable to the South. You will find that these situations largely existed in 1940.

Now, when I left the railroad some 30 years ago, I know that the situation was entirely different, because we brought in those articles at that time. In an effort to show con- [fol. 3035] cretely what happened in 1929, I made a check, and I found that in 1929 the movement in the South was lighter, but instead of sending out fresh meats we brought in 33,590 tons. That shows, in my opinion, that the Southern freight rate structure has permitted the growth of Southern industry. The next item is 220, the Cured Meat group, which I feel it fair to say is favorable, although I find, as compared with 1929, that we have lost some ground.

Referring next to Item 231, Butterine and Oleomargarine; those are the oleos, and they are some of the commodities as to which Mr. Spottswood, in his Exhibit No. 76, chart 3, page 10, indicates that the rates are so constructed as to hold that traffic in the South. Now, this is the Butter Substitute group, and I call your attenion to the fact that the market for those items is in the South; that we consume there something over 4,000 tons more than we originate. I find also, as to this group, that the consumption in the South, as measured by tons terminated, is approximately one-quarter of the terminations for the United States, measured by tons originated, the Class-1 carriers of the United States during 1941 having originated 27,459 tons of these products. But there is another story with respect to this group, and that is the matter of state regulations set up to protect the dairy industry. Those regulations are in effect in most of the states of the Union, the principal [fol. 3036] offender, if I may properly use that term, being the State of Wisconsin. I do not recall just what the regulations are, but in Alabama we have to buy the product uncolored and color it ourselves.

As to the next item, 260, Wool, a raw material, the traffic balance is definitely favorable; that is, it is inbound; and it is approximately ten times greater than it was in 1929. As to the next item, 270, Green Hides, a raw material, the balance is unfavorable, but is small, amounting to only 6 per cent of the originations. As compared with the 1929 figure as to green hides, we have lost some little ground. The next item is Item 271, Leather, which is another raw material made from hides, and the balance here is unfavorable, amounting to 31 per cent of the originations, but showing an improvement over 1929, when the percentage figure was 52. Now, for the group as a whole, the net balance is less than 1 per cent, and is made up principally of the Cured Meats item.

[fol. 3037] I come now to Group III, Products of Mines. As I understand it, this is the group where the North is supposed to drain these raw materials, and I can't find any substantial drain in the group. I might point out my study of the group. The first item, 300, is bituminous coal. I only call that to the attention here to ask the Bench to make a mental note of the balance figures which, in 1941, were roughly 21 million tons and in 1940, 19 million; because I will come to that later.

Item 310, coke is a very important raw material, and today the traffic balance is inbound and therefore favorable. When I saw this I was amazed and I couldn't figure it out. I had to make some investigation. I happen to represent the only commercial coke producer in the South. I will have to amend that; there is one at Chattanooga, I mean at Birmingham, and we ship from 75 to 125 tons of coke outside of the South annually. It will average, over a period of ten years, about 100,000 tons. And I have found that this inbound movement today consists largely of petroleum coke, which is coming from the Southwest and is being used by industries in the South. Now, in 1929 the picture on coke was entirely different. The balance was 292,080 tons outbound.

Item 330, copper. This is a raw material and the balance is favorable as a raw material. The next two items, 331 and 332, are raw materials and, as such, the balance is [fol. 3038] unfavorable, but when you go to the very next group, which is item 333, ores and concentrates, you find the balance is favorable from a raw material standpoint and exceeds items 331 and 332. Items 350 and 351, sand and gravel and crushed stone. The balances here are very heavy and certainly—they are outbound but it certainly does not represent materials that drain by industry from the South.

I now go to item 360, petroleum, crude. I had that checked off to discuss but I have decided I just don't know anything about it. It is rather heavy and it seems to be a strange movement to me, and I am unable to characterize the balance as either favorable or unfavorable. I do find that this movement, in 1941, was 24 times heavier than it was in 1929.

Item 370, asphalt. Mr. Spottswood has figure 3 on page 10 of his Exhibit 76 to show that the rates are so adjusted as to draw this raw material out of the South. I want to call your attention to the fact that we actually bring the material in. The balances are inbound. That situation is different from 1929, when the balance was outbound to the extent of 151,807 tons.

Item 380, salt, an important raw material, and the balance is heavy and definitely inbound and favorable. Phosphate rock, item 390. This material is used to make fertilizer and for chemical purposes, and I am unable to say whether [fol. 3039] the balance is favorable or unfavorable. I note

that at page 25 of Mr. Hart's Exhibit 90, I see that the product was not produced in Official territory. 391, sulphur. This is an important raw material and the traffic balance is inbound and favorable.

Now, for the group as a whole, there are nine items on which the balance is outbound and nine inbound. If we take the total net outbound balance and deduct the coal item from it, that net comes down to 2,344,617. If I go further and deduct sand, gravel, stone, crude petroleum and phosphate rock, the balance then jumps over from the outbound column to the inbound column. If in this group there are materials being extensively drawn out of the South, they must be in Item 392, products of mines, N. O. S. The balance there is nearly a million tons outbound, but I don't believe that there is substantial tonnage of that material that is moving to Official territory. I find that in Group 392 are assigned 81 commodities, from abrasives to yellow ochre. Numbers of these commodities do not move interterritorially. Some like Fuller's earth move from the South to the petroleum industry in the Southwest. Some of the articles assigned to this group are barytes, bituminous asphalt rock, china clay, brick clay, pyrites, crushed limestone, dolomite, feldspar, fire clay, fluxing stone, Fuller's earth, ground iron ore, kaolin, pipe clay and shale. For example, the movements of clay and shale to make [fol. 3040] sewer pipe, earthen sewer pipe and brick out of would be in this 392 group.

I go now to Group IV, Products of Forests, and take up first logs, which is a raw material, and the balance is outbound. This unbalance is due either to logs originating on short-line railroads terminating on Class I carriers, to short-haul movements immediately across territorial lines, or to the mahogany and foreign woods of value which are brought in rather extensively through the gulf ports and sent to other territories. To the extent that these foreign logs are brought in, I would characterize this outbound movement as favorable to the South.

Items 440 and 441, rosin and turpentine. They are important raw materials used by industry, and if other territories get them at all, they must come first principally to the South and then to the Southwest. Item 442, crude rubber. This is an important raw material and the traffic balance is definitely favorable. As to the other articles in the group, I have a separate exhibit prepared where I

have consolidated and will discuss those when I come to them.

I take up Group V, Manufactures and Miscellaneous, where the traffic balance, total traffic balance is right at four million tons. That is——

By Mr. Norman:

Q. Mr. Ribe, I don't understand this. You have got that crude rubber, originating in the South, 13,000 tons. [fol. 3041] Is there any rubber raised or produced in the South?

A. Mr. Norman, that would be tonnage that originates with the carriers at the southern ports.

Chairman Aitchison: The same way with bananas. That is the most striking.

The Witness: I come to Group V, the manufactured group. As I said, in 1940 the balance was right at four million and in 1941 it is practically six million. If you merely take the heading, you would probably construe this unbalance here as entirely unfavorable, but the group includes raw materials. It includes products that do not move interterritorially. The first four items are the petroleum products and we have to go largely out of the South to get these products. The balances aggregate for those four items 1,132,666 tons inbound or about one-sixth of the total. Certainly that inbound balance cannot be characterized as an unfavorable trade balance.

Item 460, cottonseed oil. This is an important raw material and the balance is outbound and may be characterized as unfavorable. Item 461, linseed oil, an important raw material, and the balance is inbound. Beginning with the iron and steel articles, 490 down to 513, I will treat them separately with another exhibit.

Item 520, the copper group. These are raw materials, and, as such, the balances are definitely favorable to the [fol. 3042] South. Item 521, bar, sheet copper and brass. The balance here is unfavorable to the South. 522, raw materials, lead and zinc group. The balance is favorable to the South. The movement is inbound. 523, another raw material, aluminum: Ingot, pig or slab. The balance is, as indicated, unfavorable from a raw material standpoint.

Item 530, I want to call particular attention to, which is machinery, because that is the other rate illustration I

am going to give; and I call attention to the fact that the traffic balance of that very highly manufactured product is inbound and definitely unfavorable.

Item 540, cement, building material, and as such I characterize the unbalance, which is inbound, as favorable to the South, showing that we are drawing in this material for construction purposes. Items 550 and 551 are the two brick groups and are one case where, illustrating Mr. Spottswood's point that we send out low-valued products and bring in high-valued products. Item 560, common limestone used for building construction and is a raw material. The trade balance here is inbound and definitely favorable when you consider it from a raw material standpoint. Item 561, plaster, a building material which we bring in. I consider that balance favorable.

Item 582, tractors. Mr. Spottswood also had a figure here showing how the rates were adjusted to prevent this [fol. 3043] product from going out of the South, but I call attention to the fact that the market for the product today is in the South. Item 593, automobile tires and tubes, a manufactured product, and the balance today is practically a balance. In other words, the difference is an outbound and a very small figure. Item 611, furniture, other than metal. This is a highly manufactured product and the balance is favorable; it is outbound. Item 650, newsprint paper. I call attention to the fact that here there is a substantial inbound movement and a market in the South. Mr. Spottswood covers that in figure 2 of his chart 3 on page 10 of his Exhibit 76.

Now, since 1940 I have made two surveys of two prospective paper mills in the South, one a newsprint paper and the other kraft paper. As to the first survey, I want to read you the first letter that I received from the Bagdad Land and Lumber Company, Bagdad, Florida, just one paragraph: "If a plant is secured, preferably a newsprint, the market will probably be found in the Southeast. If a kraft plant is secured, the principal market will be along the North Atlantic Seaboard in New York, Boston and Philadelphia, although we could expect a sizable market between Chicago and Cleveland." I want to emphasize that situation because if you equalize these rates and if you use the basis that Mr. Hart has advocated, you narrow the spread as against any other southern shipper who might come in and make newsprint paper.

[fol. 3044] The next item is 651, printing paper, N. O. S., a highly manufactured product, and the unbalance is slightly inbound and therefore unfavorable. 670 and 671, cotton goods and bagging, bags, the balances are outbound and, as manufactured products, are favorable. Item 690, manufactured tobaccos. These are very highly manufactured articles and the balance is unusually favorable for the South. 692, furnace slag. This item, in my opinion, should always have been over with sand and gravel but it is not. I don't think the balance shown can be characterized as either favorable or unfavorable. 693, scrap iron, I will cover later. 694 and 695, paper articles. Mr. Spottswood has a figure in his chart 3 designed to show the handicap that these articles are under, but I call attention to the fact that the traffic balances are heavily outbound.

Item 696, building paper and prepared roofing. The balance is here is heavily inbound and, as a manufactured product, is unfavorable; but during the last 15 years we have had a substantial growth in that particular industry. For example, the Certain-teed Products have put a plant at Savannah, the Ruberoid Corporation at Mobile and the Flintkote Company one at New Orleans. The Flintkote have also built a plant at Meridian, but where it makes roofing, I don't know. As to the New Orleans plant, we [fol. 3045] supply it with slag pebbles, and the movement has been growing until about two years ago it reached 10,000 tons a year of the slag pebbles.

Now, I ask that a mental note be made of the balances on the bituminous coal, to get down to the total carload traffic. Now, when I discuss the coal figures from the balances on all carload traffic shown, item 850, I get a net balance outbound, 1941, of 1,231,641 tons and in 1940 of 829,812 tons. That is less than 31 per cent, which I would like to compare with the figure that Mr. Spottswood arrived at of 32 per cent.

Now, I have compared these total figures with 1929, and I find in 1929, if you take out coal, the net inbound balance was 5,994,276 tons. That shows the material improvement that has been made in the South, 1941 and 1940, as compared with 1929. In other words, this unbalance has come down from approximately six million tons to approximately one million tons.

I have made some other comparisons with 1929. The total tons originated in the Southern Region in 1941 were

equivalent to 100 per cent of those in 1929. In the Eastern District, the percentage figure is 91. That is 1941 as compared to 1929. For 1940, the tons originated by the Southern carriers were 80 per cent of the tons originated in 1929. For the Eastern District, the figure was 74 per cent.

I want to refer now to page 18 of my Exhibit 152. The [fol. 3046] heading is explanatory. This is one of the shortcuts that I have had to take. I refer to Column F, which deals with first class, and with Column J, which deals with machinery. Here, unlike the hay extreme case, we are dealing with like with like, that is 100 versus 100 for first class and 40 versus 40 on machinery. I want to call your attention to the fact that if the Eastern scale is adopted for adoption within the South, between the South and Official territory, that these northern shipping points generally will receive greater reductions in cents per hundred pounds than the two southern points shown.

Now, the northern shipping points shown in this exhibit unquestionably are representative. I don't consider Greensboro and Nashville, Tennessee, as representative because they are not really as close to the heart of the South as is Birmingham or Alabama. In connection with this machinery situation, Mr. Spottswood testified that the textile industry had moved to the South but the machinery industry had not, and he charged that to freight rates. This shows it cannot possibly be charged to freight rates. It was not necessary, however to stop with textile machinery. The newer paper industry could have been considered or the important older lumber industry or even the T. V. A. If you go around the T. V. A. power plant, you will find that practically all of their machinery comes from Official territory.

[fol. 3047] By Chairman Aitchison:

Q. I don't think I understand this on sheet 18, the average present first class rate as contrasted to the average Appendix E first class rate. Why is the difference? Are the first class rates from Albany, you say, the Appendix E rates?

A. Not from Albany to the South. This is to 39 southern destinations that Mr. Hart used as typical of the South or representative.

Chairman Aitchison: Oh, yes.

The Witness: Now, as to the machinery industry and the lumber industry, particularly with reference to the lumber industry, I have made some recent inquiry to find out where the machinery comes from, and I find that the lumber mills throughout the United States, including those in the Pacific Coast, get practically all of their plating machinery from two concerns, one in Boston and the other in Beloit, Wisconsin. The sawmill machinery comes from three shippers, principally: Two of them at Milwaukee and one at Olean, New York. So I am unable to say how the rate situation has anything to do with the machinery, because lumber is not an important product produced in the North, but the other territories go to that section for their machinery.

Do you understand that exhibit now, Mr. Chairman?

Chairman Aitchison: Yes, I understand it.

The Witness: I go now to page 19, pulpwood, and I show [fol. 3048] first the commodity statistics for the Southern Region for 1940 and 1941, and I find that the tons originated in the South during 1941 amounted to 4.2 per cent of the total tons. In Item 2 on page 19, I have compared the Southern scales—we have a general scale that applies throughout the South, known as the Roanoke Rapids scale, and a separate Georgia scale, which is on a lower basis. I have compared those with the scales in New England and Western Trunk Line territory, and I have made the comparisons in five-mile blocks. I refer to the totals and index figures on page 20. The rates are compared in two ways: First, for 180 miles, because that is the terminus of the Central Vermont scale, and next for 200 miles, which is the terminus of some of the other scales.

On page 20, under the B & M column should be typed "Same as Maine Central," as was done on page 19. It will be noted that, at 200 miles, treating the Southern scale as index 100, the Georgia scale is 92, the Maine Central and Boston-Maine scale 147, and the other scales are higher.

I go now to page 22, industrial sand. I have shown first the production of molding sand in the South and Official territory, and compared the scales in the two territories. These production figures, I recently discovered, are not accurate because the Bureau of Mines, Department of the Interior, includes everything that is sold ultimately for molding sand purposes. It will be noted that here the [fol. 3049] Southern scale, as a whole, is 30 per cent lower

than the Northern scale. Now, the differences vary through the scale and I don't represent 30 as being the exact difference. I have run these comparisons to 1200 miles because molding sand, the natural bonded variety, moves from Albany, New York, as far west as Illinois and Wisconsin, and as far south as Birmingham.

I go now to page 24, pig iron. Mr. Hart made certain comparisons with pig iron and used the term, the words that he was showing relative levels. That is shown in the heading of his exhibit.

Before taking up my K exhibit, which is page 24, I want to give the history of the pig iron in the South that is shipped by railroad. That pig iron consists of what we know as merchant iron and is used largely for making what is known in the trade as gray iron castings, cast iron pipe and the like. In other words, there is very little tonnage of pig iron moving in the South that is converted into steel. The only movement that I know of is from the Birmingham District to Atlanta.

Now, when I went to Birmingham in 1909, the pig iron that moved by railroad, 85 per cent moved outside the South and 15 per cent stayed in the South. In other words, as to the drawing of raw material out of the South, that would be a true statement as to pig iron if you were talking about 1909. Now, in about 1908, the year before I went [fol. 3050] to Birmingham, the plant of the National Cast Iron Pipe Company, whom I now represent, was completely new. Also, about the same time, the large producer now known as the American Cast Iron Pipe Company purchased and enlarged the old Dimmick Pipe Company. Now, some time between my connection with the L. & N. Railroad in Birmingham in 1909 and my connection with the Southern Railway in 1911, the pressure pipe plants of the McWane Cast Iron Pipe Company at Birmingham and the Alabama Pipe Company at Anniston were built new, so that was all new consumption that came into the South of pig iron after 1909.

Now, I have given you the history of all the companies in Alabama that make pressure pipe except two, that is the U. S. Pipe & Foundry Company and the Central Foundry Company, and I do not know their history. But I know they were operating in the South in 1909.

Now, in the '20's a new method of producing cast iron pipe was invented, that is the centrifugal process, where the

pipe is turned out in about 20 minutes like sausage, whereas the old pit-cast method used to take ten hours. Also, since 1909, the Southern stove industry has developed. The principal consumers for the merchant iron which is shipped by railroad in the South are, first, the cast iron pipe plants, next, the stove plants and, thirdly, the Atlanta Steel Company.

Now, in my exhibit on page 24, I have shown the tons originated and terminated in the Southern Region for a [fol. 3051] 13-year period, with the outbound figures, which shows that the amount of exports out of the South into other regions has stayed right close, between 15 and 20 per cent. Now, opposite line 10, I have shown certain figures for the I. C. and Frisco, in an effort to see if I could explain a discrepancy, which I will later point out.

Beginning with item 2 on page 24, I show the distribution by classification territories of the 1934 rail movement of pig iron. That information came into my possession in this way: In 1935, the Southern railroads proposed a Fourth Section revision and we had a number of conferences and I, as representing consumers of pig, was made the chairman of the shippers' committee dealing with the carriers. The railroads asked for the breakdown of the 1934 movement. As is usual in such cases, the blast furnaces were unwilling to divulge their individual figures, so these were supplied to me and I consolidated them and supplied them to the railroads. The results are shown in item 2 on pages 24 and 25; and I call attention to the fact that 84 per cent of the movement was to the South, 13 per cent to Official territory and 3 per cent to the West. Now, the 1934 movement was only about one-half of normal. But from my knowledge of the situation, I believe that these figures are all representative. The discrepancy that I mentioned is that opposite lines 26 and 27. It will be noted that after I consolidated the shipments, I had a figure of about [fol. 3052] 60,000 tons in excess of the tons that the Southern carriers had originating. That is the reason why I have shown these I. C. and Frisco figures, but I believe the discrepancy is accounted for in two ways: First, pig iron purchased by the Birmingham railroads and moved deadhead, second, pig iron moving in the Birmingham district on switching rates.

On page 26, item 3, I show the breakdown of the 1934 movement to Southern territory by states, districts and

destinations. Under a column headed "Location of," I have inserted the kind of consumers at these points, as far as the information was in my knowledge. The important consuming states are in this order: Alabama first, with 61 per cent; Tennessee, 16 per cent; Kentucky, 13 per cent; Georgia, 6 per cent; Virginia, 3 per cent; North Carolina with 1 per cent and the other states with less than 1 per cent.

I now refer to page 28, item 4. Here I have shown the distances and rates from Birmingham to the destinations shown in the preceding item 3. I have discovered, since coming to Columbus, that I left out Macon, Georgia, but the movement there is small. Now, in item 4 I have set the destinations up in distance order, because we have a group adjustment in the South as a destination group adjustment, and unless you put down the rates in this order, the adjustment appears rather inconsistent; but when the points are [fol. 3053] listed in distance order, it will be found that the rates follow consistently mileage to some extent, with the exception of Evansville.

Now, in item 5 on page 29, I have compared the live Southern rates on pig iron in the South with the New England scale. That is the only section of the country where I know there is a mileage scale applying on pig iron. My reason for starting with 31 miles and ending with 360 is explained in the asterisks opposite line 20.

By Mr. Norman:

Q. Mr. Ribe, isn't that New England scale the ex-water scale?

A. I don't think so, Mr. Norman. There is a blast furnace at Boston, you know; or rather it is in the Boston district. I have forgotten the name of the place.

Now, item 6, I have—and this is another one of my shortcuts—I have compared the live Southern rates with the rates in that part of Official territory lying on and east of the Buffalo-Pittsburgh zone, and for this purpose I took all of the Northern rates shown in Mr. Hart's Exhibit 88, Section 3-D. The comparisons are wholly explanatory, but I want to call out one or two.

First, on page 29, line 27, the rate between points in the Birmingham district. It will be noted that for comparable hauls, our district rate is about half of the North-

ern rate. Page K-30, the next most important district, from a consuming standpoint, in Alabama is the Alabama mineral [fol. 3054] district, shown opposite line 4. The first mileage there shown of 35 miles is a typographical error. It should be 55.

Before proceeding with this part of the item 6, I want to stop to explain that in Official territory, on and west of the Buffalo-Pittsburgh zone, there are three levels for pig iron. The lowest level applies in Illinois territory. The next level, which is higher, applies in C. F. A., and the highest level of all applies from Illinois and C. F. A. to Michigan.

I want to refer now to page 31, line 8, which is Atlanta, Georgia. I call attention to the rate in the South and the Northern rates for comparable distances. It will be noted that the Southern rate is about almost half of the Northern rates shown. I have carried out these comparisons in the same way, using comparable hauls for the distance range shown in the last column on pages 31 on through 35.

I will refer now to page 36, iron and steel articles of the higher grades. By that I mean the articles that ordinarily take the so-called list rates. Mr. Spottswood had a figure in chart 3 of his Exhibit 76 illustrating this iron and steel situation to indicate the discrimination northbound. First, I have shown in item 1 the commodity groups which I have included and which are the articles that ordinarily take the list rates, and over on the right, I have shown the groups that I have excluded. I have discussed the first excluded group, pig iron, 490. The second group is the [fol. 3055] billet group and the rates in the South on that group are lower. The third group is the rail group. The rates from the South on that group are lower. 510, cast iron pipe, I will come to that later.

I refer to item 2, where I have shown the general rate bases for the rates on these high-grade iron and steel articles. East of the Mississippi River, we have a commodity basis; west of the Mississippi River, a column basis. My only purpose there in showing the two different methods of making rates is to point out that if there is a uniformity of methods, either the method on the east side will have to give way to the west side method or vice versa.

Now, in item 3 on page 36, I have shown production of these high-valued iron and steel articles measured by tons

originated. I want to call your attention to the fact that the production, as so measured, is 92 per cent in Official territory and 2 per cent in the Southern region.

Mr. Grubbs: 98.

The Witness: 98 per cent and 2 per cent. Now, in item 4 I have shown the consumption as measured by the tons terminated. Here it is 92 per cent in Official and 8 per cent in the South. On page 37, I have shown the traffic balances for these highly valued iron and steel articles, and it will be noted that for the Southern region, the ratios for both years are approximately 3 to 1. In other words, [fol. 3056] we terminate 3 tons to 1 ton we originate. Now, there are several reasons for this. In the iron and steel list there are many articles that we do not make in the South. There are also many articles which we make only the lower grades in the South and the higher grades are made in the North.

The figures shown in items 3, 4 and 5 on pages 36 and 37 are subject to some minor adjustments which I cannot make. One, for example, is that the production figures would not include the less carload traffic which moves directly from the mills nor would it include the huge amount of iron and steel articles which move down from the Eastern Atlantic and down the inland rivers by water. I am satisfied that as to the water movement, if I had the figures and could put them in item 3, that there would be no change in the percentage figures of 92 and 2 per cent.

The other adjustment that I am unable to make, and it is more important, is that in the Birmingham district the larger shipper is, of course, the U. S. Steel Corporation and their shipments originate on the Birmingham-Southern Railroad, and as to their mills at Fairfield, all traffic moving over that carrier is linehaul. In 1940, for example, the Birmingham Southern originated, of these highly valued articles, 1,177,811 tons and terminated 158,807 tons. Now, if I take those originations and assume that they all were consumed in the South and add them to item 5, the ratio then of consumption to production would [fol. 3057] be about as 3 to 2, but much of that steel which the Birmingham Southern originates moves through Ensley and down the Warrior terminal and then the Warrior River.

Now, I come to pages 38 and 39. Before discussing those pages, I want to state that I do represent two small

iron and steel shippers in the Birmingham district, one making metal lath, who have been in business about 5 years, and one making bolts, nuts and related articles.

Chairman Aitchison: Mr. Ribe, I don't want to seem to hurry you, but your time is going awfully fast.

The Witness: How much more time have I got?

Chairman Aitchison: You have taken an hour and a half.

The Witness: An hour and a half?

Chairman Aitchison: But continue just as rapidly as you can.

Mr. Norman: An hour and ten minutes.

The Witness: An hour and a half?

Chairman Aitchison: An hour and ten minutes, Mr. Norman says.

The Witness: Well, in Exhibit 38, that is page 38, I have shown from Birmingham and principal steel shipping points in the North what the result would be if the Eastern iron and steel scale were used, and here I have used another shortcut. I have taken state capitals in the South and [fol. 3058] Southwest and, because Baton Rouge is east of the river, I have added Shreveport west of the river. It will be noted that in all cases, the differentials which Birmingham enjoys would be narrowed. The figures speak for themselves.

I turn now to page 40, coke. I have shown the commodity statistics for this commodity but have already discussed that. In one of Mr. Hart's exhibits, he used the I. & S. docket 3511 scale as the standard for Official territory and referred to it as the Official level. In item 2 on page 40 I have shown what the levels are as far as I know them. The figures speak for themselves.

I refer now to page 43, item 1, which indicates the commodities that I have included in the traffic statistics, which are the articles ordinarily taking the lumber rates. The tons originated here in Southern region amount to 8.1 per cent of all carload traffic originated by the Southern railroads. It will be noted that the unbalance between the originations and terminations is outbound, and I am unable to characterize that unbalance as an unfavorable one.

One of the principal uses, outside of house building and construction, for lumber is in the manufacture of furniture, so immediately following item 1, I have inserted furniture under item 2, showing the originations and terminations, and which indicates clearly the favorable position of the

South. We move out substantially more tons of furniture [fol. 3059] than we bring in.

Now, there was a question about the rate level on lumber in connection with Mr. Hart's—one of his exhibits. I find that in three pages, Mr. Hart said that he was comparing relative rate levels. The sheet I have in mind is sheet 13 of Section 3-B. Now, on page 44 I have shown the levels cumulatively and 100 miles——

By Mr. Norman:

Q. Mr. Ribe, may I interrupt you. Did you state that Mr. Hart stated he was comparing relative rate levels?

A. He so stated in three places in his exhibit as to lumber.

Mr. Norman: I understood he was not doing that. Go ahead.

The Witness: He said he was not. I said he stated in three places in the exhibit that he was.

Mr. Hart: I stated I was not.

Mr. Norman: All right, go ahead.

The Witness: In any event, we have a group adjustment in the South. I was chairman of the shippers' committee which reached the compromise with the Southern railroads, and we had to fit *of* square pegs in a lot of round holes, and maintain this group adjustment at the same time. There were a total of 11 proposals and counter proposals made, and we finally reached a compromise by taking my last scale up to 400 miles and the railroads' scale beyond 400 [fol. 3060] miles, and I call attention to the fact that the Southern lumber level ranges from 65 per cent at 100 miles to 84 per cent at 600 miles at Official territory level, but that because of the peculiar and unusual grade beyond 500 miles, Mr. Hart was able to show a level of 98 per cent by running the comparison to 1500 miles.

I refer now to page 45, scrap iron. I represent nine consumers of scrap. In the first item, which is 1, I have shown for 13 years the tons originated and terminated. The statement has been frequently made that rates are adjusted so as to draw raw material out of the South. Here is one case where the situation is exactly reversed. We in the South have difficulty in keeping scrap iron in the South. If you will go to the percentage figure in item 1, you will find that when business is slack, like it was in 1932,

we could keep all the scrap iron in the South. Now the principal point for scrap in the South is, of course, the Birmingham district. In item 2 I have shown the distances from border points to Birmingham, except I did not go up to the Virginia border, as I have never known of a movement from that part of the Southern territory.

In item 3 on page 46 I have compared the level of the Southern scale with the Official territory level, and up to 500 miles it ranges—and the important Southern scale is the 80,000 scale—it ranges from 79 to 82 per cent of the Northern level.

[fol. 3061] Now, I was also chairman of the consumers' committee which dealt with that situation with the carriers, and Mr. Hart was on my committee. I have got to be very short and the best way I can characterize the adjustment we had to supersede was that it was a mess. It had one particular characteristic and that was the short haul rates were relatively low as measured by most standards and the long haul rates were relatively high. So to fit into the situation that we there found, we had to use a high-graded scale, and I show the progression in item 4 of the Southern scale and the Official territory scale by 100 mile blocks. It will be noted that beginning at 200 miles, in the 80,000 rates, the progression is uniformly 66 cents a ton, whereas if you take the Official territory scale, the progression decreases with the distance. Should the rates on scrap iron be revised on any standard that this Commission has used, we would have great difficulty in keeping the material in the South.

I refer now to page 47, road and concrete aggregates. Mr. Hart had four statements on this group, and you can't tell anything about the rates from any of the four statements. I find that as to this tonnage, it amounts to 13.7 per cent of the total tons originated by the Southern carriers. In item 3 I have shown the rate levels by each 50 miles up to 300, and following, on the following pages are the details of the rates.

[fol. 3062] I refer now to page 54, cooking and heating apparatus. Mr. Chairman, since Indianapolis I have been to Cleveland, Tennessee, to see Mr. R. B. Hurt, who is president of the Hardwick Stove Company and who headed the Southern stove shippers in the Southern Governors' rate case. I found Mr. Hurt and his laborers going to school, learning how to make a very important——

Chairman Aitchison: We can't hear you.

The Witness: I say I found Mr. Hurt and his laborers going to school, trying to learn how to make a very important fighting machine, or rather a part, and he asked me to give you the situation for the Southern stove industry and to cover it as best I could.

Now, beginning in item 1, I show the number of establishments or plants in the South and Official territory. If those west of the Mississippi River are added, the number would be pretty close to 450. Now, this industry finds itself in this fix: The W.P.B. first grouped them in three groups, placing all of those with gross sales annually in excess of two million dollars in Group A, those less than two million dollars but in a critical labor area in Group B, and those with sales less than two million dollars and in a non-critical labor area in C. By order effective July 31, all of the manufacturers in A and B were ordered out of business. Those in C were allowed to remain in business, making what is [fol. 3063] known as victory models, where both the cast iron and the steel is reduced in weight. Mr. Hurt's company and one other of the stove shippers I represent happened to be in the A group and were ordered out of business. The Cleveland company, however, does have a stamping plant and they are making an important war material but I am not at liberty—rather, they were fixing to start the night I was there. I am not at liberty to tell you what it is.

On page 55, item 2, I show the raw materials that were used by the Southern manufacturers of stoves and related articles in 1937 and their source. This was based on a dollar and cent value. I call your attention to the fact that on that basis, the Southern stove manufacturers obtained 54 per cent of their raw materials from the South and 46 per cent from the North.

Now, opposite line 3 is a reproduction of a study I made for the Governors' rate case and which tests the only way I could find the value of the Southern products, and as so tested, it shows that the Southern product is less valuable and here, in that case, I had to make that test based on average value per wage earner. I couldn't find any other basis.

In item 4, page 56, I show the territorial distribution of the 1937 Southern shipments, which were shown in great detail in the Governors' rate case. In item 5, I show the division as between cooking and heating apparatus, indicat-

[fol. 3064] ing that the production and shipments are divided about 50-50, and that as to the heating apparatus, the principal markets are in Official territory and the Northwest, where the weather is cold. In item 6, I show the number of domestic consumers of gas, indicating that we have only 4 per cent in the South and 96 per cent in Official territory, and that as to gas cooking and heating stoves, the market is in Official territory.

In item 7, and I have taken another shortcut here, I show our 10,000 pound rates from Chattanooga, Tennessee, to Official territory, and my shortcut is to use the state capitals. I had to substitute Baltimore for Annapolis when it was discovered that to Annapolis there are no joint rates, but here the rates from the South are on a lower basis, more than 10 per cent lower than the Northern level, and these rates were voluntarily given to the Southern stove manufacturers by the railroads. They were not prescribed in the Southern Governors' rate case. My purpose in using Chattanooga is that it is the center of Southern production. If you draw a circle within 150 miles of Chattanooga, you get in all the plants but two.

In item 8, I have shown from Chattanooga to the same destinations our less carload rates on furnaces from Chattanooga, and the purpose of this comparison is to indicate that in the North, there is a truck competitive basis which we have as a result of the Southern Governors' rate case. [fol. 3065] If that Northern truck competitive basis is advanced to the normal classification basis and our rates go up with it, we will get greater advantages in dollars and cents than a Northern shipper, because our distances are greater.

Item 1 on page 54 shows that there are some of these Northern states, at least five of them, that have a greater number of plants in them than the South has in its entire area.

Now, I have not shown the most important rates on stoves and those are the carload rates from the Southern plants to Official territory and the less carload rates, except on furnaces. The reason I have not shown them is that all of those rates are on the normal classification basis in Official territory. That is fourth class on the gas stove, carload, fifth class on the coal and wood stove and house heating furnace, carload, and second and third classes, less carload, for those two groups. If there is unification of the rates east of the Mississippi River and any basis higher than

the Eastern scale is used, our rates on stoves, all of them, will be increased a greater amount per hundred pounds than from our competitors in the North, who enjoy shorter rail distances.

We find ourselves on stoves in this fix, Mr. Chairman. Since the Northern rates are standard class rates, those rates are in issue in the case. Our rates are commodity rates but predicated on those Northern rates, they are ap- [fol. 3066] parently not in issue. But from a practical standpoint, I don't see how the situation can be treated, how you can treat a Northern rate without treating our rates. They are on the identical same basis, although our rates are commodity rates.

Now, I come—how much more time have I got, Mr. Chairman?

Mr. Norman: It is up. Exactly one hour and 30 minutes.

The Witness: I am about two-thirds through, so I am just going to have to quit in a few minutes.

Chairman Aitchison: Go ahead.

The Witness: I turn now to cast iron pipe, page 59.

Chairman Aitchison: The deductions that you draw from this, I think, are more important now than an explanation of details.

The Witness: What deductions?

Chairman Aitchison: As you go through here.

The Witness: You mean as to cast iron pipe?

Chairman Aitchison: As to the various items you have remaining. You say you are about two-thirds through?

The Witness: Yes, sir. As to this group, I am speaking for the national organization which is indicated on page 2 of my exhibit, and we are interested in the case. From the Chairman's ruling, apparently our carload rates—I shouldn't say "apparently"—our carload rates are not in issue, but as to less carload, we have one foot in and one [fol. 3067] foot out. By that I mean in the South we have 40 per cent of first class, which is a normal rating, and that is the rating from Official territory to the South, and it is a classification, proper basis, whereas within Official territory it is an exception rating to our competitive and our Northern rates which were voluntarily given to us by the carriers, are on the Northern level.

Now, in item 89—I think the exhibit is fully explanatory, Mr. Commissioner, and I am not going to refer to that

item, except item 7, in which I show our carload levels. These rates were all fixed by this Commission, except from the South to W.T.L. Zone 1, where the adjustment was a voluntary one by the carriers. We wanted to show these levels because Mr. Hart did not clearly show them. Now, the less carload rate bases are shown opposite line 8—are shown in item 8, rather; except that I have omitted, through oversight, one rating, and that is from the South to the South, which should have been shown as 40 per cent of the going rates.

Now, the position of the cast iron pressure pipe industry of the United States is that it has been working under relationships set up by this Commission as to carload traffic, that it does not want those rates disturbed. I can tell you frankly, Mr. Commissioner, before the Commission acted, there was a continual fight within the industry, but since the [fol. 3068] Commission has acted and has fixed those rates, we no longer have those fights. We are using those relationships. The Pressure Pipe Institute's position is the same with reference to less carload rates. I will have to say there that we are unable to tell you what the proportion is, less carload. The three other members of my committee have been here all week and they all guess from 2 per cent to 10 per cent and I just can't give you the figure.

Now, on my S Exhibit, which begins at page 62, I have listed the commodities which I have discussed, analyzed or touched on in my testimony, and called attention on the last page, opposite the last line, that I have touched in one way or the other, 84.3 per cent of the tonnage originated by Southern carriers.

Frankly, Mr. Chairman, I am only two-thirds through but I will quit.

Chairman Aitchison: Well, we want to get the facts and if you have something significant that you haven't touched on, you can give us your idea of it.

The Witness: I would like to cover just one situation, Mr. Chairman. No, I would like to cover two situations. One has to do with figure 4 of Mr. Spottswood's chart 3, page 10 of Exhibit 76, dealing with pottery. Now, this has been one of the stock illustrations given of rate discrimination that has been used over the South for quite a number of [fol. 3069] years. It originated with the failure or the twice failure of a pottery industry in Georgia to succeed. I made a thorough survey for the Crosset-Watsek-Gates Industries

of Chicago, looking to the installation of the pottery at Lockhart, Alabama, and I was assisted by the vice president of the Alabama Power Company, which company employed a New York firm of engineers. I have my original file here. We first investigated the reason for the failure of the Georgia pottery. We found that while they changed the engineers two or three times, they were never able to make a product that could be sold; that a sample was put with the Chamber of Commerce at Savannah for display, and because of unfavorable comment, the Chamber asked the manufacturer to remove the display.

Now, the statement has frequently been made that Georgia has china clay and should therefore produce this product. I think it can be done, based upon the study I made. Now, my study not only went to the rates but also to the location of the raw materials. First, the plant called for making 200,000 sets. That is the annual production; averaging 42 pounds apiece or 4,200 tons.

One principal raw material is fuel oil. This plant, if it had gone in, would have used two carloads a week. Being close to Pensacola, 75 miles, and knowing that normally the Gulf price for fuel oil is lower than the North Atlantic price, we started off with the knowledge that we were not in an [fol. 3070] unfavorable position there. Another raw material that is actually used in the product itself is glazed material. Those materials consist of fritt, which comes from Cleveland, Ohio—and incidentally, I developed through this engineering firm the values of these products at Trenton, New Jersey. Fritt, which comes from Cleveland, Ohio, Trenton value, $105.20 a ton; feldspar from western North Carolina, $20 a ton; flint—and that term is used in the trade for silica sand, $12.05; kaolin from Florida, $19.26; lead carbonate from the Joplin district, $150; zinc oxide from the Joplin, Missouri, district, $215. Now, as to those glazed materials, my instructions were to pay no attention to them, as these high-value products would move in small quantities by less carload and the freight rates were not a factor.

Now, when we get to the real raw materials that go into the chinaware, here they are: First, sand flint, 35 per cent. This flint or silica sand must be pure sand, very low in iron and entirely free from titanium. I made a search; so did the Power Company through the industrial departments. We first found this sand at Berkeley, Virginia. The next point we thought we found it was Thomasville, Georgia, but there

we had to buy an electric magnet from some place in the North to reduce the iron content, but it was discovered that the material had three-tenths of one per cent of titanium, so we had to exclude the use of the Thomasville material. We [fol. 3071] finally found the proper silica sand, undeveloped, on a doctor's property, three miles from Ohatchee, Alabama, on the Seaboard, northeast of Birmingham; and the conclusion made was to mine the sand ourselves and ship it to Lockhart, Alabama, and grind it down there.

I am not going into any further detail on raw materials except to say that your proportion of feldspar is 10 per cent, the Florida kaolin 21 per cent, the ball clay, from the Paducah, Kentucky, district 17 per cent, our china clay, available in Georgia, 17 per cent.

Now, as to the raw materials, I made a trip to Chicago to see the I. C. Louisville to see the L. & N., Savannah the Central Georgia, and I can tell you in every case our raw material rates were less. Following that—and at the same time, rather, I made a survey of the rates outbound on chinaware,—for that purpose—and I was told that the competition would be East Liverpool, Ohio, Trenton, New Jersey, Erwin, Tennessee, and Evansville, Indiana—for that purpose I took all of the cities in the South and Southwest, having a population of 50,000 or more, extending up to and including Evansville, Indiana, Covington and Louisville, Kentucky, Kansas City, St. Joseph, St. Louis and Springfield, Missouri, and Norfolk, Richmond and Roanoke, Virginia. When I got through I struck averages and I found that from Lockhart, the shipping point would be slightly at a disadvantageous position in relation to Erwin, Tennessee, [fol. 3072] and Evansville, but as to East Liverpool, we would have an average rate advantage of 8 cents per hundred pounds, carload, and 16 cents less carload. As to Trenton, we would have an average advantage of 15 cents carload and 30 cents less carload.

After that study was supplied to Mr. E. C. Gates, who was the man on the spot at Lockhart, he phoned me to forget the outbound rates, that his investigation showed that there was a market in the deep South and the Southwest for much more than his production, and he described this rate situation that I presented to him as "a perfect knock-out."

Now, that comes up to the point as to why the industry was not put there. There was only one reason. Since Indianapolis, I have written Mr. Gates to find out that reason,

and that is these parties would not proceed unless they could locate a management that was experienced in the manufacture of pottery. That meant that they would have to get somebody from one of the other pottery companies and they could never find anybody who was interested. Now, that is the pottery situation. I could cover some of the others the same way, but I will not, Mr. Chairman.

Mr. Donnelly: Mr. Chairman, may I ask Mr. Ribe a question?

By Mr. Donnelly:

Q. What was the point which you figured on placing the pottery?

[fol. 7073] A. Lockhart, Alabama.

Q. Lockhart?

A. Lockhart, Alabama.

Chairman Aitchison: Do you want to offer these exhibits?

The Witness: Yes, I offer these exhibits.

Chairman Aitchison: Without objection, they are received.

(Exhibits 152 and 153, Witness Ribe, received in evidence.)

Chairman Aitchison: Anything further, now? Do you wish to cross-examine? Mr. Norman.

Cross-examination.

By Mr. Norman:

Q. Mr. Ribe, what shippers do you represent here that ship on class rates?

A. Alabama Metal Lath Company——

Q. Where does it ship to?

A. We ship what is known as plaster grounds, the principal item being metal lath, and we ship to the South and Southwest and some to the Pacific Coast.

Q. Not to Official territory?

A. Not to Official territory. Practically every shipper of the 60 shippers I have listed, beginning at page 3, use class rates to some extent.

Q. But it is on their inbound, like machinery or something like that, rather than their outbound product, isn't it?

[fol. 3074] A. No, sir, that is not right.

Q. Well, what are the ones, now, that ship the outbound product on class rates?

A. The second shipper indicated ships the commodities named less carload, on class rates, and the movement is quite considerable. It is to the South, the coal mines, largely in Alabama and Tennessee and Kentucky. The third shipper ships less carload extensively on class rates. The Alabama Pipe and the nine shippers that follow ship only a small proportion, probably not over 5 per cent, outbound on class rates. The next five shippers, beginning with Agricola Furnace Company, line 20, everything we ship moves on class rates, if you call your exceptions ratings class rates.

Q. That is what, as a rule, is not class rates.

Chairman Aitchison: Providing it is not published in the classification in terms of percent.

The Witness: In other words, we have always considered it class rate traffic, Mr. Norman.

By Mr. Norman:

Q. Now, as I understand your testimony, practically every industry in which you are interested enjoys rates that are lower in the South than they are in the North: pig iron, lumber, road aggregates, coke, cast iron pipe, scrap iron, is that true?

A. I would say that generally that is true but not entirely. I think it is generally true of most other southern industries.

[fol. 3075] Q. Now, it is also true, is it not, that you have been successful in obtaining, for most of your clients, a level of rates into Official Classification territory on the basis obtaining in that territory?

A. That is true, Mr. Norman, and in several recent cases I have obtained rates that are lower in that territory.

Q. Well, you and I fought it out on coke. The Northern railroads opposed it, took it to the Supreme Court, but we finally got it. We got it on stoves in the Southern Governors' case. You have got it on cast iron pipe that you represent. Now, tell me——

A. Just one minute.

Q. Tell the Commission why you think that the little washboard manufacturer, who hasn't the means or the influence, or the little macaroni producer over in Memphis, or any of these other gentlemen who testified here, why aren't they entitled to that same kind of an adjustment?

A. Mr. Norman, let me correct one misstatement that you made erroneously. That is, you said that the Commission had given the pipe shippers the Northern level. That was done—well, in carload it wasn't done either. But as to less carload, the pipe shippers, as such, that is the pressure pipe and soil pipe shippers did not participate in the Governors' rate case. There was a concern that made iron body valves [fol. 3076] and some other articles and some special pipe fittings that did participate, and the Commission prescribed the Northern level on pipe fittings, less carload. About a year later, the railroads gave the pressure and soil pipe shippers that basis on pipe, less carload.

Now, my answer to your question as to the macaroni shipper and the washboard shipper and the baseball bat shipper is that those situations do not justify the throwing of rates on 15 or 20,000 pound articles of commerce into a hopper and revising all of them. I think they are entitled to relief; I don't say they are not entitled to relief. We have got other shippers in the same situation relief in the Governors' rate case, you and I.

Q. Well, it is your idea, though, that the way to begin it is to negotiate with the railroads and go through the railroad agencies, bureaus of one kind or another, and undertake to get it that way rather than to get it in any wholesale fashion?

A. Well, that is my idea, yes, sir.

Q. What?

A. That is my idea, yes, sir. I want to say, Mr. Norman, that since the Governors' rate case, I have found that the Northern railroads are much more——

Chairman Aitchison: We can't hear.

The Witness: I have found that since the Governors' [fol. 3077] rate case that the Northern railroads are much more liberal in dealing with these situations than they were before.

Mr. Norman: That has not been my experience, but maybe I haven't had as much as you have.

By Mr. Norman:

Q. Now, coming back to that stove case. We were told in the record in that case that if the rates were made from the South on the level obtaining in the North, that grass would grow in the streets of the Northern cities where the

stoves were manufactured and the Northern manufacturer would be out of business. Did anything like that happen as a result of the establishment of that parity of rates?

A. I don't know but I don't think so.

Q. Now, apparently you object to a change in the southbound rates, rather in the class rates, both intraterritorial and interterritorially, on the ground that that would narrow the spread against the Northern manufacturer to local markets in the South, and in favor of the Southern manufacturer, is that correct?

A. No, it would narrow the spread against the Southern manufacturer in favor of the Northern manufacturer.

Q. No, the spread to a local point in the South, 100 miles from the Southern manufacturer, is certainly in favor of the Southern manufacturer as against the Northern manufacturer, 700 miles away?

A. It is today and it would be after the revision.

[fol. 3078] Q. Yes.

A. But still using the Eastern scale, it would narrow that spread against the Southern manufacturer.

Q. That is right. Now, what you want to do is to protect the Southern manufacturer from any such competition as that? In other words, you not only are going to keep the wall at the North, going north, but you are going to keep the wall coming South, is that right?

A. I propose to keep the present rate structure, subject to such adjustments as may be justified my conditions.

Q. Are you opposed to a uniform rate and classification on classes applying in both directions throughout the eastern section of the country?

A. Mr. Norman, I have always been of the opinion, and it has gone back 30 years, that because of the situation which Mr. Spottswood very clearly showed of the values, that lower northbound class rates are justified than southbound; and that is generally speaking.

Q. Now, referring to that value, you made recalculations about the balance of traffic but you, like Mr. Spottswood, arrived at the conclusion that the South was an exporter of the low-grade raw materials and the low-grade manufacture and an importer of the high-grade manufactures, didn't you?

A. No, sir, I don't think so.

Q. Well, now, let's take your Exhibit 153 and turn to the [fol. 3079] last page, page 4. You show there that, on manu-

factures and miscellaneous, the South is an importer to the tune of 5,918,232 tons, don't you?

A. Yes, sir.

Q. And on carload freight as a whole, it is an exporter to the tune of 22,286,000 tons?

A. Yes, sir.

Q. Well, doesn't that show that the South is an importer of the high-grade manufactures?

A. Of course, I know that that is generally true, that the southbound movement is usually of high-grade articles, like clocks and lamp bulbs and radios and refrigerators and sewing machines. Mr. Norman, I pointed out that when you took the net balance of all traffic that you referred to and pulled out bituminous coal, that you had practically a balance, inbound and outbound.

Q. That is very true, but while it balances, yet the balance is reached by taking in the high-grade manufactured articles, a big balance imported there, and that must be offset by a balance of the raw materials exported?

A. No, Mr. Norman, as I analyzed Exhibit 153, I think that I show as many instances of raw materials coming into the South as raw materials going out of the South. For example, cotton. I showed you nearly 800,000 tons is brought into the South.

[fol. 3080] Q. Now, isn't it true with cotton that a large part of the manufacturing in the South is of the low-grade material which is shipped to the North for further manufacture?

A. I so understand from reading Commission reports.

Q. Yes. Now, you illustrated your point by taking hay and straw on item 70 and 71, your Exhibit 153. Now, as to the hay and straw, the South apparently is a net importer to the tune of about 46,000 tons, is that right?

A. A heavy importer, yes, sir.

Q. Now, the rate southbound, you said was 125 per cent?

A. Of the southern level.

Q. Of the southern level. Now, how do you conclude that the South is benefitted by the continuation of that high interterritorial rate when it is a larger importer?

A. The point that I made, Mr. Norman, is that if you take those three levels that I gave you and bring them together to one level, that you would narrow the rate spread now enjoyed by the southern shipper of these products.

Q. Oh. So your idea is, by a rate adjustment, to protect that producer down there although he only produces half of what is used in the South, and by the same method you are going to penalize the consumer, is that correct?

A. I am not going to do anything. I am just showing you what the result would be.

Q. I know, but you say that result, in your opinion, is [fol. 3081] undesirable.

A. As I understand your position, Mr. Norman, you want an adjustment that would stop this import figure.

Q. No, I don't. You certainly misunderstood me. I want an adjustment that will provide for free trade and on equal terms; and what you want to do is to provide, by a rate adjustment, for protection of certain industries in certain markets. Now, isn't that so?

A. I don't think that is entirely true.

Q. How, otherwise, do you explain your position on this, just sticking to this hay and straw, except that you want by the rate adjustment to protect the producer of hay and straw in the South as against the consumer?

A. I don't know any of the commercial conditions relating to hay and straw or why this condition exists and why we don't produce more of these products in the South. It just looks to me like we ought to. But I only gave you an illustration to show what would happen against the interest of the southern shipper of those products if the rate adjustments, which apparently I have heard no objection against them from those who have the higher rates, are drawn together. I am not proposing anything on those, that is, I am just merely illustrating with those commodities as one of the extreme cases.

Q. And you said as showing how this would be against the interest of the South, and what I am trying to get you to [fol. 3082] tell is how it could be against the interest of the South.

A. Well, as a consumer, it probably would not be. I was talking about the southern producer of these commodities.

Chairman Aitchison: I think that is the first time the consumer has been mentioned in this hearing, isn't it? (Laughter.)

Mr. Norman: As a matter of fact, Mr. Commissioner, if this parity of rates is established and classifications, uniformity, the consumer is going to be the principal beneficiary. That is the man for whom it ought to be done. That lets him buy them in a free market without any artificial barriers.

Mr. Bell: Is that an argument or a question?

Mr. Norman: It wasn't addressed to you, in any event.

The Witness: Mr. Chairman, I wonder if we can have a little recess?

Chairman Aitchison: Yes, take a recess for five minutes.

(Witness excused.)

(Recess taken.)

Chairman Aitchison: Mr. Gossage wants to get away.

L. A. Gossage was sworn and testified as follows:

Direct examination:

The Witness: My name is L. A. Gossage. I am traffic manager of T. L. Herbert & Sons, and affiliated companies, and my headquarters are at Nashville, Tennessee. I have [fol. 3083] been employed by T. L. Herbert & Sons and affiliated companies for the past six years, and prior to my connection with these companies, I was employed in the traffic and accounting departments of the Tennessee Central Railway Company for a period of 18 years.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

The Witness: The traffic of T. L. Herbert & Sons and affiliated companies which normally amounts to approximately 20,000 carloads per annum, consisting of brick, tile, sand, gravel, coal, building materials, mill supplies and other traffic. The bulk of our movements are within Southern territory. We pay freight charges based on both class and commodity rates. All of our commodities are named in the classification.

We are seeking no changes in the existing rates on the commodities shipped by T. L. Herbert & Sons and affiliated

companies, in this proceeding because, as a whole, the presently applicable rates on such commodities within the South are reasonably satisfactory to us under the conditions which exist today. We are, however, very vitally concerned in any changes in the rates on these commodities, which would have the effect of materially disturbing the existing levels and we are strongly opposed to the adoption of any plan for the reorganization of the rate structure [fol. 3084] that would tie our rates within the South to the rate levels in the North, and thus take from the shippers and railroads in the South the initiative and control of these rates. Moreover, we do not want our rates made a rigid and fixed percentage of the rates in the North as Witness Jensen has suggested, nor do we want our commodity rates tied up by percentages to the first class rates because we feel that our basic commodity rate structure, which is satisfactory to southern industry, could not long survive under such a reorganization.

The rate structure of the South today is, in my opinion, responsive to the actual needs of southern industry and, therefore, reflects an entirely different method of distributing the transportation burden than is followed in either Official, Southwestern or Western Trunk Line territories. While, under the present rate structure, our class rates are somewhat higher than those within Official territory, our commodity rates on the basic commodities produced in the South are generally lower than in the North, and these basic commodity rates are essential to the continued development of southern industry.

I have been unable to learn from the discussion that has taken place prior to the commencement of this proceeding or the testimony that was presented by the Southern Governors Conference and the Tennessee Valley Association at the Indianapolis hearing, just what rates or principles of [fol. 3085] rate construction, in so far as they affect Southern territory, are sought by the interests which are advocating "uniformity" in this proceeding. In other words, I have been unable to ascertain whether they are seeking only reductions and the retention of the existing rates wherever the levels in the South today are lower than in the North and East; or whether they seek to have the northern levels, whatever they may be, made applicable within, from and to the South.

Regardless of what these interests advocate, however, we do not feel that the South can expect to have its cake and eat it, too, and we apprehend that if the theory of "uniformity" is to prevail in the case of the class rates, it will inevitably lead to "uniformity" in the case of commodity rates; in other words, we do not see how the rate philosophy expounded by the Southern Governors Conference and the Tennessee Valley Association can fail to bring about, ultimately, an upward revision of our commodity rates in the South if the southern railroads are to obtain sufficient revenues to maintain their properties on a sound basis and pay fixed charges and other obligations. I say this because it has been shown here that these railroads over a long period of years have not received, on the whole, revenues sufficient to enable them to earn what has been regarded as a fair return, and if their revenue from class rate traffic is materially reduced, it seems inevitable to me that they will have to recoup their losses from other traffic [fol. 3086] if they are to avoid bankruptcy.

I know of no serious complaint from southern industry about the rate structure within, from and to Southern territory today; indeed; industry in the South is now so deeply engaged in the war effort that it has no time to devote to the study of a question of this kind, or to attempt to determine what the effect of a nation-wide upheaval of the rate structures, as has been suggested here, would have upon normal industrial conditions to say nothing of the conditions that may exist in the post-war world.

Under all of the circumstances, the interests which I represent feel constrained to urge the Commission to make no changes in the existing rate structure within, from or to the South at this time, or at least, to defer the consideration of any changes until the war is over and every one concerned can determine with some degree of satisfaction what sort of conditions are going to confront industry and the railroads.

Chairman Aitchison: Cross-examine.

Mr. Norman: I have just one or two questions.

Cross-examination.

By Mr. Norman:

Q. Your company is engaged in shipping, I believe you stated, brick, tile, sand, gravel, coal, building materials,

mill supplies and other traffic. Now, what part, if any, of your outbound products move on class rates?

A. Almost everything that we ship moves on class rates.

[fol. 3087] Q. Brick?

A. Yes, sir.

Q. Does it move on a class rate?

A. Less carloads of it.

Q. What territory do you serve?

A. The bulk of it in Southern territory.

Q. If I understand, you desire that there should be no change in the present rate adjustment?

A. That is right.

Q. Is that correct, sir?

A. That is correct.

Q. How would your company be injured if these class rates, such of them as you use, were made on the same level, both North and South and in both directions?

A. We feel like that if the class rates were made on Official territory level that it would inevitably follow that the commodity rates in the South would be made on Official Classification territory level. And our basic commodity rates in the South are lower now than Official Classification territory.

Q. So it is the commodity rates that you are interested in?

A. Yes.

Q. And your objection to the parity of class rates is due to the fear that it might result in an increase in your commodity rates, is that it?

[fol. 3088] A. Yes, sir.

Q. So far as the class rates themselves are concerned, you wouldn't be injured, would you, if they were put on parity?

A. I would only be injured in so far as they would affect our commodity rates.

Q. What is your reason for believing that if you changed the rates on classes, that that would result in a change in the rates on lumber, we will say? That is one of your items?

A. I don't see how you could have Official territory level of rates on classes without sooner or later that basis being employed on all traffic in Southern territory.

Q. Well, if you were given a wider market for your product, could you not afford to pay a higher charge on your raw material?

A. I don't think that would cause our market to be broadened.

Q. You have known many changes to be made in the class rates in the South, have you not?

A. Sir?

Q. You have known many changes to be made in the class rates in the South?

A. I didn't understand.

Q. Have you not known of many changes that have been made in the class rates in the South, 13494 and the 1940 reductions?

A. The class rates, as I understand it, have not been [fol. 3089] changed since they were prescribed in Docket 13494, except the increases and reductions.

Q. Are you familiar with general reductions that were made in 1940?

A. That wasn't in the class rates. That was in the classification of articles, was it not?

Q. Well, it reduced the rates on a great many of the articles that had theretofore moved on class rates, didn't it?

A. Yes, sir, but it was not reduced by reducing your class rates, it was reduced by reducing your classification rating.

Q. It arrived at the same result, though, of a reduced rate?

A. That is right, sir.

Q. Did that have any effect upon your commodity rates?

A. No, sir.

Mr. Norman: I believe that is all.

Chairman Aitchison: You are excused, Mr. Gossage.

(Witness excused.)

Chairman Aitchison: Now, Mr. Ribe. Proceed, Mr. Norman.

Mr. Norman: Just a moment.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

A. J. Ribe resumed:

Cross-examination (Cont'd):

[fol. 3090] The Witness: Mr. Norman, before you start, I would like to complete my answer to one of your questions.

Chairman Aitchison: A little louder.

The Witness: I beg your pardon. I would like to answer one of the questions that was rather a double-jointed question in regard to commodity Group 701, where you assume that the balance there of these manufactures was of entirely manufactured articles. That group actually contains 1,292 commodities, many of which are not the highly manufactured articles such as you referred to. Some of them, for example, are sulphate of ammonia, circus outfits, coal tar, coal tar oil, coal tar pitch, contractors' outfits, cotton ties, creosote oil, iron and steel culverts, all kinds of railroad cars and locomotives, so you can't just look at that item, because it is called "manufactures" and assume that it is all highgrade.

By Mr. Norman:

Q. Now, in your study did you make any check to determine whether or not the figures given by Mr. Spottswood with reference to the value of products imported and exported are correct?

A. I did not. I knew that his conclusion was right, from my personal knowledge.

Q. Then you don't challenge that conclusion?

A. I do not. Let me qualify that. For example, of course we have some products in the South, like our cast [fol. 3091] iron pressure pipe, it is the same grade whether it is produced in the South or the West or the North, but I am talking about, generally speaking——

Q. What?

A. Generally speaking, the products of the South are lower value than the North.

Q. Now, you referred to an item of tractors. You said the South was an importer, and I understood you to say that if these rates were changed and put on a common level, that that would be against the interest of the South. Now, how do you arrive at that conclusion?

A. As indicated in what I might call my mass exhibit on machinery, that is page 18 of Exhibit 152. In other words, if you put in the northern level in the South and between the North and the South—and I am speaking of the Eastern class level—you would narrow the spread between the northern manufacturer and the southern manufacturer against the southern manufacturer.

Q. In other words, you think this ought not to be done because, we will say in Birmingham, shipping to these 39 points, the South now, by reason of its shorter distance, has an advantage of 97 cents as against Albany, New York, and under this parity scale it would have only 78 cents, is that correct?

A. I haven't checked Birmingham. I don't know where [fol. 3092] you are getting your figures from.

Q. Well, I believe it isn't Birmingham. It is from 12 shipping points in Official territory and two shipping points in Southern territory and 139 destinations in 120 per cent territory—I mean 39 destinations. Now, you show there the rate from Albany, New York, to those destinations on machinery as being 97 cents and under the Appendix E it would be 78, or a deduction of 19 cents?

A. Yes, sir.

Q. And you mean that if there is a manufacturer of machinery some place in the South, it would reduce the advantage by that much, is that it?

A. Yes, sir.

Q. Do you know of any manufacturer of machinery in the South, where he is located?

A. There are manufacurers of—there is the Weland Company at Chattanooga, and I don't know what they make. The Commercial Engineering Company at Chattanooga make boilers, a very large manufacturer, and there is the Cunningham Corporation at Shreveport, Louisiana, and the Alabama Machinery & Supply Company of Montgomery, Alabama. Incidentally, those southern companies that I mentioned supply s[illegible] sawmill equipment, and there is the third company that I couldn't find. It is named Newman and it is somewhere in North Carolina.

Q. Well, in any event, all of those companies would bene- [fol. 3093] fit by having a better relative adjustment on their rates northbound, would they not?

A. I don't know what the rate adjustment is northbound. I just don't know. If they don't have the northern level, they would.

Q. They would?

A. Yes.

Q. But your idea is that that isn't desirable from the standpoint of the South, whether you view it from the standpoint of the broad economy of the South or from the stand-

point of the consumer or from the standpoint of the producer, the ultimate producer?

A. I don't know, Mr. Norman. For 25 years I have been fighting for the northern level to go into the North. I haven't changed my mind.

Mr. Norman: I am glad to hear you make that statement because I just can't understand how you could have changed your mind, after the way you and I have fought together to that end. I believe that is all.

Chairman Aitchison: Any further cross-examination of Mr. Ribe?

By Mr. Grubbs:

Q. Mr. Ribe, in your activities, looking to the establishment of new industries in the South, have you encountered any difficulties in getting needed rates from the railroads? [fol. 3094] A. That is rather a broad question.

Q. No, I confine it to your activities in undertaking to locate new industries in the South.

A. Well, generally speaking, that is not one of my jobs. In other words, I don't work for any chamber of commerce, but I have, as I told you, made surveys from time to time, for example for a newsprint paper mill and for a kraft paper mill, for a chinaware——

Q. That is what I had in mind.

A. And in those cases, we encountered no difficulty.

Q. Now, you referred in your testimony to the pottery project and to the exclamation of the gentlemen who was furthering it that the rate situation was "a perfect knock-out." Did that indicate satisfaction or dissatisfaction?

A. It indicated satisfaction, Mr. Grubbs, and in that connection, when I was in Louisville, talking to Mr. Tilford about the raw material rates, he offered to give us the northern level to the border and proposed it to Official territory, and we told him we didn't need the rates.

By Mr. Norman:

Q. Who told him?

A. I said we told him we didn't need the rates.

By Mr. Grubbs:

Q. Now, in your testimony you have referred to the rates which were presented by Mr. Spottswood, and I

want to call your attention to a rate or a comparison that was made on matches from Birmingham. Now, you are [fol. 3095] from Birmingham. I want to ask you if there is located in Birmingham a manufacturer of matches?

A. That was one of the situations that I wanted to cover on my direct, frankly. In 1928, a match plant was promoted by a Mr. B. G. LeGrand, who was then with the American Snuff Company, and Mr. C. S. Henley, a real estate operator. They built a sheet iron building about the size of this room and about a story and a half high, and Mr. Jess Walters, a friend and neighbor of mine for 25 years, would have been the sales agent. In 1928, Mr. Walters was in the brokerage business, selling staples, such as are handled by grocery stores. He is now purchasing agent of a large chain grocery store in Birmingham.

I have recently talked to Mr. Walters to find out the story of this match factory. The stock was sold in 1928 and the only matches it sold were about three carloads it brought in from other manufacturers and jobbed. It has not operated since—well, as far as I could find, it never did operate.

In an effort to get some information on the match factory, I called last week on Mr. Foster, the general chairman of our local chamber of commerce, to inquire what he knew about it, and he told me he had come to Birmingham in the fall of 1941 and had never heard of it, but his secretary had been there before Mr. Foster and she heard the conversation and rushed out and brought in a brief that the old [fol. 3096] Birmingham Industrial Board had made, had written, and I have borrowed it and anybody can look at it, with the promise to return it. It is a rather large document and most of the information in here has to do with water and population and so forth; very little with respect to freight rates, but there are three sheets and the pages are unnumbered.

Before I speak of these sheets in this brief, I have to say that the brief is undated but by deduction I have determined that the date was somewhere in 1931.

Mr. Norman: Mr. Chairman, in the interest of time and for the record, economy in the record, I want to object to all this detail about some promoter that came down there and tried to put up a match factory. Now, he is even going to bring into the record the brief that they got up about their match factory. I submit it is not relevant.

Chairman Aitchison: Mr. Grubbs, what do you say?

Mr. Grubbs: Well, if your Honor please, apparently that is one of the star illustrations that is used by T. V. A., illustrating the difficulties of manufacturers in the South. I didn't intend to elicit by my question a lengthy discussion of it, but it did bring out that this witness himself had hoped to do it, and therefore he entered upon it; but I do believe, in view of the fact that the very interests which Mr. Norman represents used it as such a star exhibit, it is highly important for this Commission to know whether there was [fol. 3097] somebody in the South who wanted to manufacture matches and couldn't do it by reason of the freight rate-structure. It seems to me that the facts that Mr. Ribe is giving are very pertinent on that subject.

Mr. Norman: Mr. Spottswood showed the rate adjustment and said for that reason he couldn't operate there. Is there anything wrong with the rate adjustment that he showed? If so, that is all right, go ahead and show it.

Chairman Aitchison: Well, we have heard about this match thing. We might just as well hear it briefly, about what the situation was. Cut it short, Mr. Ribe.

The Witness: All right. There are only four pages in here that would have any bearing on the subject at all. One page is headed "Territory to be served," and it mentions the deep South only. It is about two-thirds of a page. The next page is a plain black and white map with Birmingham and Memphis encircled and, incidentally, this brief is an argument against the removal of the factory to Memphis, and which the competing points, competing shipping points are shown in red. Somebody wrote them in in pen and ink. Following that is a statement of distances from Birmingham and rates to show the distance and rate advantages that Birmingham has over Memphis. And following that is a list of all of the manufacturers in the United States, with their credit rating.

With respect to the sales, I asked Mr. Walters last week [fol. 3098] if he had sold any matches, where he would have sold them. He said first in Birmingham and then in Alabama. If he didn't find a complete market, he would spread out, probably, to Mississippi and Georgia. That is all.

By Mr. Grubbs:

Q. Then you haven't a manufacturer in Birmingham today?

A. We never had had a manufacturer. We had a plant up there but it brought in some matches from other factories and jobbed them out.

Q. And that plant is not in existence today?

A. It is a woodworking plant now.

Q. And it wasn't rate difficulty that caused the cessation of that operation, is that correct?

A. I have been unable to find where it was a rate difficulty.

Q. Yes.

A. Although it has been a stock example used by a lot of people as to discrimination as to what freight rates can do to an industry.

Q. Now, in answer to a question by Mr. Norman, Mr. Ribe, you stated that the few people who have appeared here asking that their rates be changed, that is, the wine manufacturer and the peanut manufacturer and the like, you said that they were entitled to relief. I wonder if you intended to reach the conclusion that on all the facts presented they were entitled to relief, or whether you intended [fol. 3099] to say they may be entitled to relief?

A. Mr. Grubbs, most of that testimony I didn't hear.

Chairman Aitchison: Then you are in an excellent position to pass on it. (Laughter.)

The Witness: I heard just some parts of it and I heard the washboard manufacturer about half and I heard all of the wine man, and the point that I wanted to make was that we shouldn't have this wholesale revision of rates just for half a dozen articles that mean very little in tonnage.

Chairman Aitchison: Are you cross examining, Mr. Grubbs?

Mr. Grubbs: Yes, sir. This might be called redirect, though, I recognize it. I am a sympathetic cross examiner.

Chairman Aitchison: We had better call it redirect then.

Mr. Grubbs: In conclusion, just let me ask you this question:

By Mr. Grubbs:

Q. We have all recognized that you have had wide experience with shippers in the South. I will ask you, have you found, in general, satisfaction or dissatisfaction with the Southern class rate structure and particularly——

Mr. Norman: That is a broad question.

Mr. Grubbs: I will withdraw the question. I will withdraw the question because the gentleman wants to get away.

Mr. Norman: I have just one question:

[fol. 3100] By Mr. Norman:

Q. You have been asked if, generally, when you approached the railroads to get an adjustment northbound for a new industry or any industry, if you didn't get their cooperation. I understood you to say yes. Don't you have to confine that to the Southern railroads?

A. No, sir, Mr. Norman, I think I answered you more direct, that my experience has been that since you and I fought the Governors rate case, that I was not having as much difficulty as I had previously.

Q. But you did previously have difficulty and you are still having some, isn't that true?

A. Well, I am having difficulty now but it is on fused zinc resignates and our trouble there is that we are going to make a new product and we gave it the wrong name. We have remedied the difficulty, because in the North they manufacture a zinc resignate by the precipitate method, which is of a very high value, and we have since found that the War Production Board is calling our products zincated rosin, so we tried to change the name.

Q. You take, for instance, the testimony here yesterday afternoon by this wine manufacturer. That shows that the Southern railroads have given him——

Chairman Aitchison: Did you hear him, Mr. Reed?

Mr. Norman: Yes, he said he did.

By Mr. Norman:

Q. Have given him the rates up to the Ohio River. Why [fol. 3101] do you suppose they stopped there?

A. I don't know.

Q. Couldn't the only reason be because they couldn't get the participation of the Northern management?

Mr. Gruggs: I object to the question.

Chairman Aitchison: Sustained.

Mr. Norman: That is all.

Mr. McCollester: Mr. Chairman——

Chairman Aitchison: Is the cross-examination going to take any time? It is after quitting time.

Mr. McCollester: Whatever you say.

Chairman Aitchison: Proceed, gentlemen.

Mr. McCollester: Mr. Norman, in his cross-examination of Mr. Ribe, made one statement as a preface to one of his questions which I think, through inadvertence, was not correct; and I don't want the record to stand with that statement without some remark on it from me.

In questioning Mr. Ribe, he asked him as to stoves and furnaces, if they were not told in the Southern Governors case that if equal rates were granted northbound from the South with the rates in Official territory, grass would grow in the streets in the North. Now, if the Commission please, the showing which we made in the Southern Governors case on this matter, which is very important to the State of New York, was that grass was already growing in the streets, as [fol. 3102] far as the stove and furnace industry was concerned, that southern stoves, under the rate adjustment complained of, were under selling stoves made right in New York, in New York markets, and therefore we contended that the fundamental basis upon which the Southern Governors case rested, that equality of rates which was necessary to enable the South to ship into the North, was without foundation. That was the state of the record as to the nature of our evidence.

By Mr. McCollester:

Q. But now, as to the effect of the equality which has been granted as the result of the Southern Governors case, Mr. Ribe, have you ever heard of Glenwood stoves and stranges?

A. No.

Mr. McCollester: I can't ask the question further.

By Mr. McCollester:

Q. Then you don't know that that plant has gone out of business?

A. No, sir.

Q. Now, Mr. Ribe, would it, in your opinion, be in the interest of the South, for whom you have struggled so valiantly, both against us and perhaps for us, in this instance, to have a complete parity of rates with Official territory, carrying with it an increase in your pig iron and other raw material rates to the Official level?

A. I am sorry, but I don't follow you, for some reason.

Mr. McCollester: Will you read the question, please, [fol. 3103] Miss Reporter.

(Question read.)

The Witness: In my opinion, it would be disastrous to all southern interests.

Mr. McCollester: All right.

Mr. Hollopeter: May I ask a question?

By Mr. Hollopeter:

Q. Mr. Ribe, I was interested in your statement that you said you had always been for higher rates southbound than northbound. Was that the statement?

A. Yes.

Q. Well, how much difference would you say should obtain in those rates?

A. I am not prepared to express an opinion on that.

Q. Well, it would be the difference that would be representative in a difference of cost of operation northbound versus southbound?

A. I don't know what those costs are; and I have never been convinced that you could make any freight rates strictly on costs.

Q. Well, do you contend, as a basis for that position, that there is a difference in transportation costs in transporting freight in one direction than another?

A. I don't know.

Q. You don't know? Your exhibit shows some 22 million tons of freight more that was sent out of the South than [fol. 3104] went into the South, is that correct, during the period shown?

A. Yes, sir, that is correct.

Q. Would that imply that perhaps from somewhere, at least, it would be necessary to bring some empty cars into the South, to bring that traffic out?

A. Well, that unbalance, Mr. Hollopeter, as far as I have been able to determine, is made up largely of the Kentucky coal.

Q. Do you have the Pocahontas Region in here?

A. We have the State of Kentucky, which would include the L. & N. and the L. & N. tonnage, and my other exhibits on the state basis, and would include the C. & O.

Q. Well, on page 3 of your exhibit you show lumber, lath and shingles with a four million ton overbalance out of the territory. That would not move in open cars, would it?

A. It would move in both kinds of cars.

Mr. Hollopeter: I think that is all.

Chairman Aitchison: Any further cross-examination? (No response.) If you have nothing further, Mr. Ribe——

The Witness: No, sir.

Chairman Aitchison: You are excused.

(Witness excused.)

Chairman Aitchison: We will suspend until 2 o'clock.

(At 12:45 o'clock P. M. recess taken to 2 o'clock P. M.)

[fol. 3105] Afternoon Session

2 o'clock p. m.

Chairman Aitchison: Shall we resume. Mr. Widell.

C. E. WIDELL was sworn and testified as follows:

The Witness: My name is C. E. Widell. My residence is Nashville, Tennessee. I have prepared a statement on behalf of the Southern States Industrial Council, which I have distributed, which I will ask, if there is no objection, to have copied into the record, without my reading it.

Chairman Aitchison: What is this, now?

The Witness: The statement on behalf of Southern States Industrial Council.

Chairman Aitchison: Is there any objection to that? (No response.) There seems to be none, and it may be done.

(The statement referred to is as follows:)

The Southern States Industrial Council is a voluntary, non-profit organization, incorporated under the laws of the State of Tennessee, composed of the major manufacturing interests in thirteen southern states. Its purposes include, among other things, the maintenance of a sound industrial economy in the southern states designed to foster the growth and development of industry and commerce within the South and with the country as a whole. It recognizes that transportation is a vital part of the industrial economy

of the country and is properly subject to reasonable state [fol. 3106] and federal regulation.

The Council advocates sound and reasonable regulation which should give full recognition to free enterprise under private ownership and control, and favors a transportation policy that will afford the carriers a fair return and provide for sound and efficient modes of transportation. Due regard should be given to the regional system of rates and charges under which southern industry has shown continual growth and development.

In these proceedings the Council desires to state its interest in the maintenance of sufficient revenues for the carriers to enable them to provide for the country's essential transportation needs. In general, it is the Council's position that rate inequalities should be adjusted through the recognized channels without involving the entire basic rates of the country. The Council apprehends that the results of complete revamping of the country's basic class rate and classification structures will not be confined within any circumscribed limits. Moreover, the Council recognizes that the South's industrial growth and development has been fostered by the important basic commodity rate structure in Southern territory, and does not favor any widespread changes that will affect adversely the South's present industrial economy.

The Witness: I have also distributed a statement con- [fol. 3107] sisting of three pages, entitled "Identification of exhibit, appearances and qualifications." Will it be all right, Mr. Chairman, to have this statement copied into the record also, or will it be necessary to read it?

Chairman Aitchison: Does anybody want to hear the statement read? (No response.) If there is no objection, it may be copied in. However, with respect to these parties for whom you are appearing——

The Witness: Following the main statement, Mr. Chairman, there are three sheets containing a list of the specific industries for which I appear, and stating the location of each.

Chairman Aitchison: Did you show them on your appearance slip?

The Witness: No, sir, I did not put all of them on my appearance slip. It would not have accommodated all of them.

Chairman Aitchison: Well, if it is necessary to have them named in the record, that may be done.

The Witness: Pardon me?

Chairman Aitchison: If you feel that it is necessary to have them appear in the record, they may be copied in.

(The statement is as follows:)

I appear for various Tennessee and other southern industrial interests, including diversified textile groups such as hosiery, blankets, cotton and woolen fabrics, bags, knit goods and yarns; the southern rock wool industry, lime and [fol. 3108] blast furnace interests, electric furnace products, by-product coke, stone and marble, forest products and woodworking plants, stoves and other heating products, coal, heavy chemicals and others.

These include Tennessee Products Corporation, Nashville; May Hosiery Mills, Nashville; Werthan Bag Corporation, Nashville; Marshall Stove Company, Lewisburg, Tennessee; Lebanon Woolen Mills, Lebanon, Tennessee; Standard Knitting Mills, Knoxville, Tennessee; American Textile Woolen Co., Sweetwater, Tennessee; McMinnville Manufacturing Company, McMinnville, Tennessee; Palmyra Lime Works, Palmyra, Tennessee; Gray-Knox Marble Co., Knoxville, Tennessee, and other East Tennessee marble interests; also iron, asphaltic limestone, and lumber interests in Alabama, Georgia, Mississippi, and North Carolina.

I have been actively associated with Southern industry in transportation matters and other duties for over 27 years. I have participated in rate cases relating to Southern rates before the Interstate Commerce Commission and in rate proceedings before the various railroad rate committees dealing with the general southern rate structure. During the NRA period in 1934-1935 I represented Southern interests on Code Committees in matters affecting the economic and transportation interests of the South. During the 2-year period 1913-1915 I was with the Iowa Manufac- [fol. 3109] turers Association, Des Moines, Iowa, as assistant to the traffic manager. Previous thereto I had railroad experience in minor capacities in rate and other departments dating back to 1907, in St. Paul, Minnesota, and Chicago, Illinois. Now, if the Commission please, I have prepared one exhibit, which I would like to have marked for identification at this time.

Chairman Aitchison: 154.

(Exhibit No. 154, Witness Widell, marked for identification.)

The Witness: Exhibit No. 154 for identification consists of: (a) Table of Contents, 3 sheets; and (b), Exhibit, 65 sheets. The purpose of the exhibit is to show the general favorable economic and industrial trends in Southern territory and the South's industrial economy as affected by the existing general rate structure.

Pages 1 to 7: General trends in manufacture, population, retail and wholesale trades.

Pages 8 to 18: Types of industries in the South and economic factors which generally determine industrial development, other than rate factors.

Pages 19 to 51: The traffic studies in 1929 in connection with the Divisions Case, 234 I. C. C. 175, and in 1939 in the present proceedings are reviewed and show material differences in the composition of northbound and southbound traffic with substantially lower rates and levels on [fol. 3110] northbound than on southbound traffic. The southbound figures in both traffic studies reflect more clearly the 13494 level of class rates and a general reduction in class rates would therefore affect the southbound tonnage to a material extent, and the northbound traffic very little. The revenues in question reflect the rates in effect in 1929 and 1939.

Pages 52 to 65: In support of regional rate structures as opposed to national uniform rate systems, and the economic factors and trends which are present in the highly-industrialized Northeast section resulting in unfavorable trends despite the class rate structures.

Exhibit 154 for identification was either prepared by me, or under my immediate direction and supervision. In so far as I know, the facts are correctly stated therein, and to the best of my knowledge and belief, the exhibit is true and correct.

Chairman Aitchison: Are you offering it?

The Witness: No, Mr. Chairman, not right at the moment. I should first like to point out a few matters, in connection with the various sheets of the exhibit, as we go through. I thought I would do that first, before I offered it.

Chairman Aitchison: Well, you had better offer it now, and then you can explain it later.

The Witness: Very well, then, Mr. Chairman; at this time, if you please, I will offer my Exhibit No. 154 in evi-
[fol. 3111] dence.

Chairman Aitchison: Without objection, it is received.

The Witness: Thank you.

(Exhibit No. 154, Witness Widell, received in evidence.)

Chairman Aitchison: Continue.

The Witness: Sheets 1 and 2 of my Exhibit No. 154 for identification contain figures showing trends in manufactures in the Southern states, and a summary of all manufacturing industries, including the United States as a whole, and eight Southern states. I have shown for the decade from 1929 to 1939, wage earners, wages, value of products and value added by manufacture. Generally, that factor last named is the more important factor in gaging trends. In the last column I have shown the increase or decrease, 1939 over or under 1929. For the United States as a whole, the loss was 22.3 per cent. On sheet No. 2 are shown the composite figures for the South,—that is, for the eight Southern states listed. The decrease is shown as 11.5 per cent, compared with 22.3 per cent for the United States as a whole.

By Commissioner Aitchison:

Q. In considering whether or not that is a real loss, have you given any consideration to the question of whether or not the purchasing power of the dollar had changed any in that interval?

A. Oh, yes, that is true, Mr. Chairman. These are, of
[fol. 3112] course, only averages for comparative purposes, and you would have other factors present, in all territories, if not exactly in the same amount, at least, still comparable.

Q. 1929, as you know, was right at the height of the boom, and some of the items which you show here, which had a comparatively high figure at that time, later came down to a very few cents.

A. Yes, that is correct, Mr. Chairman, I am sure, and of course what would be true in the South would be true in the North, or for the country as a whole, as well. On page 18 of Witness Edwards' Exhibit No. 9, there is shown a loss of 34.9 per cent for Official Territory, so that, at least

matching the trends, the eight Southern states were more favorably situated during the decade 1929 to 1939. On sheet No. 3 I have shown, as a background, the reference to the Kentucky case, and the general level of class rates within the state of Kentucky. That was shown more in detail in Witness Marts' Exhibit No. 108. Generally the class rate level in Kentucky, up to 300 miles, is only 1.3 per cent above the level of the Eastern scale. The population trend is another factor which indicates the general prosperity, or otherwise, of a section. While not absolute, at least, it is good for comparative purposes. On sheet No. 4 of the exhibit I show the population trends in the Southern states, the same eight Southern states, as against the [fol. 3113] South. I do not show it on these sheets, but it is readily located in the Census figures, that in 1940 all cities of over 50,000 population located in the South, especially in these eight states that we refer to, with the exception of Kentucky, uniformly showed a gain. Not a single city in the seven Southern states referred to, of 50,000 population or over, showed a loss for the decade; whereas, in Official Territory over one-third, and nearly one-half, of the cities of 50,000 population and over showed losses in the decade 1929 to 1939. The greatest losses were in the densely populated northeastern area. I have copied sheet 3 of Dr. Edwards' Exhibit No. 9——

Mr. Smelker: Just a moment.

A. —merely to show—pardon me?

Mr. Smelker: Just a moment, please, Mr. Widell. Have you not got the wrong exhibit number, or the wrong identification of it, as to the witness?

The Witness: Oh. I beg your pardon.

Mr. Norman: Stevens.

Mr. Wagner: Stevens' exhibit, it should be.

The Witness: Yes. That was due, as I am sure you may readily understand, gentlemen, to a loss and shortage of help, and having to bring in new and inexperienced help. There may be other similar inaccuracies. I should have referred to Witness Stevens' exhibit.

[fol. 3114] Mr. Smelker: Witness Stevens.

The Witness: Yes, sir. If I might just make that correction, if the Chairman please.

Chairman Aitchison: Certainly.

The Witness: The Southern figures shown on this sheet, of course, do include Virginia, but the last figure in the third column, 18.2, shows the favorable trend in the South. Sheet No. 6 is a comparison of retail trade in the eight Southern states as compared with the rest of the country. The loss for the United States as a whole in the decade 1929 to 1939 is shown as 13.0 per cent. Sheet 7 shows the wholesale trade, and the trends, which do not follow exactly the retail trends. In spite of the reversal of the showing as to some of the states it is a fact that the trend is more favorable in the South for the decade shown, than in the rest of the country. The exhibit does not show the situation for Official territory, but I have figures here for New England, where the loss is shown as 20.8 per cent. For the Mid-Atlantic section, New York, New Jersey and Pennsylvania, the loss was 16.6 per cent. For the East North-Central section, which includes what we would call Central Freight Association territory, the decline was 16.5 per cent.

Next, there are five sheets, Nos. 8 to 12, which are headed up "Principal industries of the South", and the information set forth therein I have taken from the 1941 [fol. 3115] Blue Book of Southern Progress, published by the Manufacturers Record, the editor of which was a witness in this proceeding at the Indianapolis hearing. The editor's note precedes the list of industries in the different states, and indicates the source of the figures. The five sheets show the substantial character of industry in the South. Some of the states have similar industries throughout. Other figures for the states reflect the natural resources that are in the different states. The annual output in dollars, in millions of dollars, that is, is covered by the figures estimated by the editor, as described in the preface at the top of sheet 1. It is an interesting showing of the substantial character of industry in the Southern states. It includes also a number of the Southwestern states.

I should like next to call attention to sheet 12 of the exhibit, under the heading of Tennessee. The editor has listed all industries with an annual output each exceeding $13,000,000. In this list you will notice there are not included any of what we term as the basic heavy industries, which in the South probably have the most favorable rate structure as compared with any other section of the country. Now, the fact that we have been able to develop

in Tennessee, as well as in the rest of the South, other industries of a diversified character, with an annual output exceeding $13,000,000 per industry, is significant, I [fol. 3116] should say, as to the character of industry in the Southern states.

For a more intimate survey of the type of industries in the South, I took the city of Nashville, Tennessee, in the county of Davidson, of which Nashville is the county seat. These are 1937 figures, and as against these figures 1941 shows a substantial increase. There is a large aircraft production at the present time, if not in the city, at least in the county. One peculiar thing about industry in the South is this, that some of the industries that have had very favorable rates, have just simply faded out of the picture. In Tennessee many years ago we had a large number of blast furnaces. Back in Civil War times they were operating with charcoal as their fuel, and then they changed over to coke as a smelting agent. We had blast furnaces at Chattanooga, Clarksville, Allens Creek, Rockwood, Johnson City, La Follette, and other points. We were a substantial pigiron producing state. And yet today there is not a single pigiron furnace in the state of Tennessee that is producing. There was one that tried to produce in the backwoods, at Cumberland Furnace, but market conditions were against it.

On the other hand, take Nashville again. Many years ago Nashville was a great hardwood lumber center; probably one of the largest in the country, and I believe the [fol. 3117] largest in the South. It is away down the list at the present time, however,—not because of freight rates, because if anything the freight rates have become more favorable to the various products of industry in the South than they were many years ago. There are other economic factors that have come in to dry up that industry in Nashville and in Davidson County.

Mr. Norman: They cut down all the trees.

The Witness: The next two sheets are sheets on which I have listed a number of large concerns. The source of this information is the Manufacturers Record, 1941 Blue Book of Southern Progress. This shows the outstanding character of some of the Southern industry. These are, if not the largest in the world, the largest in the United States. They are well-known names throughout, and show the diver-

sified character of industrialization. In the next two sheets I show basic factors which are important and essential in the establishment of industry. That is not only peculiar to the South or confined to the South. It is a general survey, applying in any territory. Now, I have not shown any freight rates in this list because of the anomalous situation respecting freight rates and transportation costs, to this extent: transportation costs are usually included among the first five factors, or the first three or four factors that are important in connection with the establishment of industry. [fol. 3118] I say "transportation costs." But that does not come down to specific rate levels, so that there is a distinction between transportation costs and freight rates, as we find them in the published tariffs throughout the country. And I might say right here that the class rate structures, especially dealing with the class rate structure of the South, have nothing whatever to do, generally speaking, as a major factor, with either the development of industry, or the retardation of industry; because, speaking from a background of experience in industry, we make our rates as we go, so to speak, if the Commission please, just like a tractor lays its track on the ground and travels on that track. I have shown here the important factors that are essential in industrial development. Now, I do not want the Commission to think that I have purposely avoided transportation costs. I list them high, in the aggregate, but there must be distinguished the difference between transportation costs and so-called freight rates.

Now, coming down to the traffic that actually moves within the South, and between the South and Official territory: it is a difficult thing to secure available material in sufficiently concrete form to determine definitely, or even as a fair basis for comparison, in this connection; but we do have some material available to us, and we have used what we had. First is the material available in the North-South Divisions [fol. 3119] Case, Docket No. 24160, reported in Volume 234 I. C. C., page 175. Sheet No. 19 of my exhibit merely lays the background for the data that follow in the other sheets. Now, in that proceeding there were filed figures showing the result of a traffic test in 1929, for the months of March and September. The following sheets have to do with that. The next four sheets, 23 and 24, especially, are pertinent to the 1929 test. Sheet No. 29 should be used in connection with Dr. Aitchison's Exhibit No. 14—I believe that is the

correct number of the exhibit—in which he showed the results of a one-day carload test in May, 1942, both within the South intraterritorially, and interterritorially between the South and Official Territory.

Now, on sheet No. 20 I have shown, in the last column—or rather, I mean to say, in the last two columns, the average rates and the per cents of the Docket 13494 K-2 scale. I used that scale as a measure because it was about the only standard available yardstick, by reason of the fact, as a whole, our rates between the North and the South measure up fairly well to the full K-2 scale. In other words, for comparative purposes, that was the only thing of a probative value, that I had. Now, this test divided carload and less than carload. In the case of the southbound tonnage, there was apparently no segregation made of commodities. In the case of the northbound tonnage, the segregation is shown [fol. 3120] from line 5 down through line 26. It will be noted that all of the southbound carload traffic in line 2 produced revenue equivalent, on the average to 33.1 per cent of the K-2 scale. That is midway between eighth class and seventh class, eighth class being Column 30, and seventh class being Column 35. The less than carload southbound tonnage produced an average revenue of approximately a little below third class. I would say that, from my own knowledge of the general northbound and southbound movements of consumer goods durable and nondurable, the southbound figures reflect a good deal of our 13494 level, which is higher than the Eastern scale. Now, on the northbound test, the commodities that are listed from line 6 down through line 23 show the general character of the better-known commodities. As to line 24, all other carload traffic, the result shown in the last column was to me at least astonishing. We find a percentage as low as 20.7 per cent on tonnage that was more than half of the total northbound traffic, and that makes allowance for all of the other tonnages listed in lines 6 to 23, both inclusive. It is amazing that our northbound level in 1929 on all carload traffic other than listed specifically here, was as low, practically, as what we call eleventh class. In the South we have only one class as such, lower than that, and that is twelfth class, or Column 17.5. When we get down as low as Col- [fol. 3121] umn 20 or eleventh-class, in the South, we are really getting pretty low for traffic of a general character. Now, the northbound total traffic indicates that there is a

depressing effect northbound that is not present southbound, due I am sure to the results of our competitive effort throughout the years in reaching outside markets. Including the less than carload as well as the carload, the total northbound tonnage produced revenue only 24.7 per cent of the K-2 scale. We were fortunate enough in that case to have the advantage of the weighted average hauls in miles which are shown in the second column of figures.

Mr. Grubbs: If the Commission please, may I ask the witness one question just at this point, in the interest of the accuracy of his exhibit.

Chairman Aitchison: Yes.

By Mr. Grubbs:

Q. Mr. Widell, the heading, at the top of the page here, says "Revenue test for months of March and September, 1929, not including citrus fruits and lumber." Is it not the fact that heading should also read "Coal and coke"—"not including citrus fruits, lumber, coal and coke"?

A. Yes, Mr. Grubbs, that is correct. Thank you very much for calling my attention to it. I appreciate that. I failed, by inadvertence, to mention also coal and coke. The citrus fruits and lumber were specifically named above, but I should have called attention also to coal and coke. [fol. 3122] Now, the statement shows "Between Southern territory, except Florida, and Official Territory." The Florida figures are shown on sheet 21. May I just make this further comment now, in connection with sheet No. 20: the northbound less than carload, in line 25, is 56.1 per cent of the K-2 scale, slightly above a fourth class average, as classification ratings go, compared with 68.5 per cent southbound. The spread in those two averages, and in the average rates shown in the preceding columns northbound as against southbound, indicates, of course, some factor present there that accounts for the substantial difference. Now, the southbound figures, as I stated, in a measure reflected in 1929, the 13494 level. If that is true, and I have no reason to believe otherwise, then the northbound figures show, based upon our common knowledge as to differences in rate levels, that we are not far from the northern level generally on all of our northbound tonnage. Now, on the southbound, we are higher, and we come to the point there, of course, as to what we are to do with our rate structures as we have

them in the South at the present time. We are opposed to national uniform rate levels. We favor regional rate structures. It would be a shortsighted policy on the part of industry not to take into account the financial effects upon our transportation systems of any lack of revenues, or any disturbance or redistribution of revenue sources from one [fol. 3123] source of traffic as against another. I represent industries here that are diversified, depending largely on commodity rates, but we own and operate small towns and villages, we operate department stores and hardware stores that sell retail and wholesale. In that respect, I might say that we are the South.

Mr. Norman: We will take no exception to that, if the Commission please.

The Witness: I might say further at this point, Mr. Chairman, that we do not agree that the Southern Governors speak for industry as a whole in the South. I have lived in the South, and been associated intimately with industry in the South for over 27 years, and I think I correctly express the sentiment of industry in the South.

Now, on sheets 23 and 24 of my exhibit, the figures are broken down according to gateways in separate groups in Official Territory. Now, on sheet 23 the last column is run out, in revenue per ton mile figures in cents, but the same relative showing is true there as to the northbound being substantially less than the southbound. To and from the different Eastern groups, within Official Territory, there is apparently a difference in the character or composition of the traffic. As a matter of fact, there is such a difference in the composition of the traffic within any given territory, as compared with other territories, that it is difficult to com- [fol. 3124] pare like with like. There is as much difference, generally speaking, between the Southeast on the one hand and the Southwest on the other hand, as there is between the Southeast on the one hand and Official territory on the other hand. Now, if uniformity means what we have been told it means during the past few years, in connection with the agitation for national uniform rate scales, it means uniformity right straight through, and I agree with Witness Ribe that it would be disastrous to Southern industry, and also disastrous to the Southern transportation systems, in which we have, of course, a direct interest.

The next two sheets, together with what follows, through sheet 51, have to do with the 1939 less than carload traffic study made by the Class 1 carriers, and included in their petition to the Interstate Commerce Commission dated April 19, 1940. Sheets 25 and 26 are a copy of the letter accompanying the following four charts, sheets 27 to 30, both inclusive. The first two charts, 1 and 2, show Official Territory revenue and tonnage blocks; and the last two, Nos. 3 and 4, are for Southern territory. The showing is further amplified on sheet No. 31, where in the last column are shown the cumulative per cents both for shipments of less than 10,000 pounds, and shipments over 10,000 pounds, within Southern territory. It will be noted that there was a heavy movement in the South of shipments weighing 10,000 [fol. 3125] pounds and over, especially when compared with Official Territory on sheet 32. The last line of the cumulative per cents shows in figures the difference in the character of the hauls within the two territories. Now, on sheet 33——

By Chairman Aitchison:

Q. Right there, do you attribute that at all to the fact that the Southern Scale progresses much more sharply than the Official Scale?

A. No, I do not, Mr. Chairman. On sheet 33 will be shown the revenue levels that are actually used in the South, or the rates that are actually used in the South; and in further answer to your question, I might say this, that apparently, from this study, we do not use much of our 13494 rates especially in the higher brackets. Now, that may be due to competitive conditions, such as either common or contract motor carrier operations, but it is due in large measure to the private motor carrier.

Q. How about your 3,000 exceptions to the classification?

A. Well, that has been a very helpful thing.

Q. Now, when you stated a few moments ago here, going back to your former statement, that you agree with Mr. Ribe that the effect of the change referred to would be disastrous, did you have in mind particularly the interterritorial rates, or did you include in that also the intraterritorial rates?

A. I had more in mind, I think, our intraterritorial basic commodity rate structure. The carriers, of course, have [fol. 3126] only one source of revenue, and that is traffic. Their revenue must come from one class, or another, on the different scales; if it does not come from one group of com-

niodities, it must come from another. Now, I will readily concede that we do not have any perfect rate structure in the South; it has plenty of imperfections; but such as it is we believe, based on the experience of years, that it is best suited to the needs of the South, especially industrially.

Q. Well, now, why do you say that it was helpful to you to have the classification exceptions put in?

A. It was most helpful in our interterritorial adjustment.

Q. They apply intraterritorially, do they not?

A. Yes, sir, that is correct; they apply both ways, interterritorially and intraterritorially.

Q. When you say, then, that it was helpful, do you mean that it was helpful only interterritorially?

A. Oh, no, I do not mean that. It was helpful generally, I would say, sir.

Q. Was that because the classification, or the classification scale of rates, was too high?

A. Well, it might be a little difficult to answer that question yes or no, Mr. Chairman, but when I said that it was applicable both interterritorially and intraterritorially, I had in mind more our southbound movement of heavy consumer goods, durable and nondurable, which move in large quan- [fol. 3127] tities less than carload.

Q. From where?

A. From all of Official Territory, New England, Trunk Line and Central Freight Association, to the South.

Q. Well, why would it be hurtful to you if your Southern territory rates themselves were revised for application within that territory? Would it be because the result would be that you would have to cut out your commodity rates, and cut out the exceptions which you say have been helpful?

A. Well, primarily, of course, Mr. Chairman, our first concern is with respect to the matter of revenue losses to the Southern carriers which would be involved in the imposition of the Eastern scale in place of our Southern K-2 scale on southbound traffic. Now, we cannot close our eyes to the fact that the heavy movement southbound produces substantial revenues, in the millions of dollars. The Commission found in the Divisions Case that the interterritorial movement would account for revenues of over—I believe it said—$100,000,000. Now, in estimating what the revenue losses would be, by using the Eastern scale instead of our Southern class rates, both on carload

traffic and less than carload traffic, we have no definite yardstick—at least, I have no definite yardstick. My best estimate is, however, that it would cause a loss of revenue to the extent of at least $15,000,000, which the Southern car-
[fol. 3128] riers are not able to afford normally.

Q. Are you doing your sorrowing, then, over the Official carriers or the Southern carriers, if an adjustment is made of the intraterritorial rates within the South?

A. Well, the situation will be this, sir, that the impact of whatever change is made will be taken up, and must be taken up, by industry in the South, which will be the only other source of revenue.

Q. Well, it gets back, then, to my previous question, that what you are fearful of here is that the result may be to take out your commodity rates, and put them on the classification basis, or increase them, and take out the exceptions proceedings which were put in, or increase them; is that right?

A. Well, that is partly true, yes, Mr. Chairman, but it goes further than that, of course.

Q. Well, then, what is the furthest point, or the furthest thing? You have mentioned, of course, the effect on the revenues of the carriers.

A. Yes.

Q. I suppose there will be other repercussions.

A. Yes.

Q. Well, now, what else?

A. May I say this, Mr. Chairman, that in testing how far we would be hurt all the way around, we had to be sure
[fol. 3129] that we understood the nature and the character of the reductions. In other words, we first had to answer the question as to whether or not it would benefit the South as a whole to have these reductions, and the extent to which we would have to take up the slack on the balance of our commodities.

Q. By "we," meaning industry?

A. Yes, sir, especialy industry; and when I speak of industry, Mr. Chairman, I mean industry such as that represented by, for example, the Tennessee Products Corporation, employing thousands of people scattered throughout the South, and producing substantial tax revenue for the state. The benefits of that one corporation alone, probably the largest of its kind in the South, are manifold. It

is impossible, however, Mr. Chairman, to give you a direct yes-or-no answer, to your question.

Q. Well, then, I will not press you.

A. Perhaps as I go along, Mr. Chairman, I may be able to answer some of these questions.

Chairman Aitchison: Continue.

The Witness: The next three sheets of my exhibit, 34 to 36, both inclusive, show the character of the less than carload traffic within the South. On sheet 36 there are shown the totals. By far the greater part, 57 per cent, moved on commodity rates. For Official Territory the figures are shown on the three sheets from 37 to 39, both [fol. 3130] inclusive. This is a breakdown of the tonnage and freight charges by classes, from 100 per cent down to 47 per cent, shown on sheet 39. On sheet 40 and sheet 42 there are shown the total aggregates and averages for Southern, Official and Western Territories. On sheet 43 I show the northbound averages from the South to Official Territory. The last figure shown in the lower right-hand corner, 117.1, is the total average revenue in cents per hundred pounds on all of the traffic from the South to the North. We had no weighted average hauls in the 1939 test. Assuming that the 1929 weighted average hauls would be representative for the 1939 period, I used that figure, which is 734 miles, shown on sheet No. 20, and arrived at an average of 55.2 per cent of the K-2 scale, as compared with 56.1 per cent in 1929. Apparently, the general character of the northbound less than carload traffic in 1939 had not changed greatly, from the decade before, in 1929. The next three sheets of my exhibit are merely breakdowns of the figures shown on Sheet 43. These are breakdowns of the northbound traffic by classes, tonnage and freight charges. The characters are explained on the last page of the series, that is, sheet 46. On sheet 47 I show the southbound less than carload figures for 1939. The total average southbound was 133.6 cents per 100 pounds. For the northbound weighted average haul in 1929 of 719 miles, shown on sheet 20, I find that 133.6 cents produce an average of [fol. 3131] 63.9 per cent of the K-2 scale.

Q. You have adjusted the K-2 scale for subsequent increases, have you?

A. I am sorry, sir, but I did not get that.

(Question read.)

A. These figures for 1939, Mr. Chairman, are the rates which were actually in effect during 1929.

By Chairman Aitchison:

Q. I did not ask you that. I was asking you as to whether or not you had adjusted the K-2 scale to take care of subsequent increases.

A. Oh. I beg your pardon. I misunderstood the question, then. Yes, sir, I have adjusted it to reflect the Ex Parte 123 increases——

Q. That is what I mean.

A. —if that is what you want.

Q. Yes. I just wanted to know whether or not you had overlooked that.

A. Oh, no.

Q. All right.

A. The 1939 figures would be the actual scale, as modified by the increase.

Chairman Aitchison: All right.

The Witness: This indicates apparently that the trend in the southbound level of less than carload traffic, or the southbound level of rates, is also below the 1929 level; in [fol. 3132] other words, 63.9 as compared with 68.5 per cent in 1929; so that the trend, even up to 1939, was downward southbound. These figures of course would be further modified by the September, 1940, reductions by exceptions to the Southern Classification, which governs interterritorial traffic. Therefore, if these figures as set forth on these sheets, are further modified by either an accurate or an estimated modification in the way of a reduction of first class down to second, or third class, and second class down to third class, or fourth class, it would modify the general level considerably. One effect, I think, Mr. Chairman of the September, 1940, reductions in the classification ratings by exceptions, was to bring the northbound level of rates as close to the northern level as might well be expected. It had no doubt a substantial effect upon the southbound traffic, especially in the first two classes, and to some extent in the third class.

Sheets 48 to 51, both inclusive, are a breakdown of sheet 47, showing by classes the tonnage and freight revenue southbound from Official to Southern territory. Now, in support of our position as to regional development and

expansion, in industry and otherwise, I have seven sheets in this exhibit, numbered 52 to 58, both inclusive, in which I have shown extracts and excerpts from a Research Study made by Harriet L. Herring, Research Associate, Institute [fol. 3133] for Research in Social Service, University of North Carolina. I have the book itself with me here. I show, perhaps in a little more detail than I would attempt to develop here, but merely for purposes of background, what she brings out, on sheet No. 54, beginning with line 17 and continuing through line 32.

Mr. Norman: If the Commission please, I am going to have to object to the receipt of this portion of the exhibit. Whoever the lady may be, she is not presented here for examination; and the publication referred to is certainly not a public document.

Chairman Aitchison: Is certainly not what?

Mr. Norman: Is certainly not a public document. I do not know under what rule it would be permissible here.

Mr. J. R. Bell: Mr. Chairman, might I ask a qualifying question in this connection?

Mr. Norman: Just a moment, please. Further in that connection, I would also like to call your Honors' attention to the rule of practice which requires that a party who is going to quote something from a document, must produce the document, and show it to the other parties, and the others then have the right to introduce any part of it that they may want to introduce.

Chairman Aitchison: The objection is sustained.

The Witness: I will make it my own, then, if the Com- [fol. 3134] mission please. Turning to sheet 54 of my exhibit: a state or a region should manufacture for the national market those goods for which it is peculiarly suited because of climate, of natural and agricultural resources, and of skills. In this way each would contribute most to the national economy.

Mr. Norman: Well, now, just a moment. The witness is apparently proceeding to read from this document, and I understood that the Commission had sustained my objection to it.

Chairman Aitchison: The witness stated that he was making it his own, but it strikes me as being very highly argumentative.

The Witness: In addition, a state or region should manufacture for its own use goods for the production of which it has sufficient resources and skills. A state or region should develop, at least for its own use, the manufacture of those goods for which it could economically and profitably produce the raw materials and develop its potential skills. In this way it would add further variety and balance to its manufacturers, help to balance its agricultural economy, and provide more varied opportunities for its people.

On sheets 59 to 65, being seven sheets altogether, there is set forth a public document; that is, excerpts of a public document which I have with me here.

[fol. 3135] Chairman Aitchison: Then you ought to produce it, and show it to counsel.

Mr. McCollester: If the Commission please, does the record show—as I believe it should show—the fact that Mr. Widell produced the original document from which he was attempting to quote the excerpts which you excluded? I think he did say that he had the book with him, but I am not sure. He just made a motion with his hand. I am not sure as to just what the record shows as to that.

Chairman Aitchison: The record does not show, of course, any motion of the witness' hand. As to what the witness said, the record will speak for itself. The ruling will be the same, however.

The Witness: The report referred to, covered by pages 59 to 65, both inclusive, is of the National Resources Committee, the chairman of which is the Honorable Harold L. Ickes. On sheet 7, numbered page 65, at the bottom of the sheet, is shown the title of the document referred to "The Problems of a Changing Population", published in May, 1938, Washington, Government Printing Office.

At this time, if the Commission please, I wish to offer my Exhibit No. 154 in evidence.

Chairman Aitchison: Your Exhibit 154 as a whole will be received, but, of course, the subsequent objection by Mr. Norman to the specific portion of it indicated, has been [fol. 3136] sustained.

The Witness: As I understand it, then, Mr. Chairman, as to sheets 52 to 58, the objection was sustained, with reference to those sheets?

Chairman Aitchison: Yes.

Mr. Norman: That is correct.

Chairman Aitchison: That is right.
The Witness: Thank you.

(Exhibit No. 154, Witness Widell, received in evidence.)

The Witness: There is certain background that I thought necessary here for the references on sheet No. 60, line 48, through line 55, with respect to the relative increase in the improvement of the Southeast in manufacturing.

Chairman Aitchison: Did the witness give some reference there, Mr. Reporter?

(Answer read.)

Chairman Aitchison: Continue.

[fol. 3137] Also lines 56, 57 and 58 on sheet 60. On sheet 61——

Chairman Aitchison: Off the record.

(Discussion outside the record.)

The Witness: And on sheet 61, line 69 and 70, the sentence beginning, "The Southeast has shown a steady increase," etc. On sheet 62 are shown the figures for regional distribution of manufacturing establishments; the Southeast in the upper right hand, last line. On sheet 62, on the bottom of the page, beginning with line 157, continuing through sheet 63, through line 165.

Now, what follows is a recital of the trend downward in the northeast section of the country, and an attempt by this committee to determine the factors that are responsible for declines in industrial trends, and especially in a section where the class rate structure is more favorable than in the South. This, taken in connection with the preceding showing, indicates to me that, based upon my general experience in industry in the South, that class rates as such, whether they are the 13494 or the Eastern scale class rates, as such, are not the controlling factors in the development or retardment of industry in any section.

By Com. Alldredge:

Q. Who do you suppose would dispute that statement?
A. I am merely speaking, of course, from background of what has been presented to us by the proponents of the in-
[fol. 3138] vestigation, Mr. Commissioner.

Mr. McCollester: Mr. Spottswood.

Com. Alldredge: I certainly think he didn't and I never heard anybody dispute a statement like that.

The Witness: The statement has been made, I think, Mr. Commissioner, that our class rates are retarding the industrial development of the South.

By Com. Alldredge:

Q. Are the controlling element in the——

A. May I modify that, then, to say that they are retarding the industrial development of the South, and in my opinion they are not. We have an adjustment that is imperfect.

By Chairman Aitchison:

Q. Well, I don't think you understand the Commissioner. You used the words "controlling of," and then when he began questioning you about it, you turned it into "retarding of," which is two different things.

A. Either one, Mr. Chairman. I am willing to stand on either statement, because it conveys to me, at least, the same idea.

Chairman Aitchison: He asked if anybody had contended he was controlling it.

Mr. McCollester: Mr. Chairman, I certainly understand it is one of the positions of the southern interests here——

Chairman Aitchison: Now, we are examining him. The question is addressed to him, and until he answers the Commissioner, we don't care to hear anyone else testify.

The Witness: That was my understanding, Mr. Chair-[fol. 3139] man, as the viewpoint of the Southern Governors' that the class rates had been the controlling factor in the retardment of Southern industrial development, and I merely wanted to answer that.

By Com. Alldredge:

Q. So you modified your statement to retardment, is that right?

A. No, I am willing to stand on my viewpoint, Mr. Commissioner, and my understanding of it is that, as I understand the position on the other side, I would make that answer to it.

Q. I see. Now, do you have this report submitted by Chairman Ickes before you? Who are the authors of it?

A. It is the report of the Committee on Population Problems to the National Resources Committee. It is submitted by the National Resources Committee to the President, at the White House, on May 14, 1938, by the committee of which Mr. Ickes is the chairman.

Q. That is right. It doesn't say who the authors are?

A. Beg your pardon?

Q. Somebody wrote it. Does it tell you who the authors are?

Mr. Norman: If I may be allowed to interrupt, in order to save time, I know where this appears. It is on the flyleaf. It says: "This report was prepared under the direction of a Subcommittee of a Science Committee. The latter group is made up of designees from the National Academy of Sciences, the Social Science Research Council, and the [fol. 3140] American Council of Education. These organizations assume no responsibility for the views and opinions expressed by their designees.

The Witness: It is a public document, though, Mr. Norman.

Com. Splawn: Since he read that, I want to ask him another question about Miss Herring's book.

By Com. Splawn:

Q. Who published that book?

A. That was published by the University of North Carolina Press, in 1940.

Q. Was it brought out under the auspices of Dr. Odum and his——

A. Yes, Dr. Howard W. Odum, Director of the Institute for Research and Social Science.

Q. Does he indicate in the preface that he had read that and he regarded this as a scholarly work, or not?

A. Yes, he commends it in his preface, on pages V and VI.

Q. The difference between the two documents appears to be that this was published with the funds of the State and the other with the funds of the Federal Government; that this one was carefully supervised by the scholars who sponsored it and the other is just some committee, the names of whom are not mentioned and they take no responsibility?

A. That is true, Mr. Commissioner.

Chairman Aitchison: There is one further difference, and that is that no one objected to this last one, before it was received.

[fol. 3141] Mr. McCollester: Mr. Chairman, I think it is relatively immaterial because I think on brief both of those can properly be quoted from as being publications in their respective fields to be given such weight for purposes of argument as the Commission may think they are entitled to. I think probably its proper place is brief.

The Witness: That completes my testimony.

Chairman Aitchison: Cross-examine.

Cross-examination.

By Mr. Norman:

Q. Mr. Widell, turn to sheet 2 of your exhibit, where you show the value added by manufacture. The figures for the South are slightly less than 8 per cent of the total for the United States, are they not?

A. I haven't the exact figure here, Mr. Norman, but I will accept yours.

Q. Now, turn to page 5. You show the population for those same states to be 18.2 per cent of the total population of the United States, do you not?

A. Yes, but the figures on sheet 5 are not for the same states as shown on sheet 2.

Q. They are not?

A. Because I limit mine to the eight southern states. You will find an explanation in page 9 as to what is included in Southern territory.

Q. On page 5, where you have got Southern territory, [fol. 3142] what is included in that?

A. I don't recall, offhand. I do remember that all of Virginia is included in it. It is explained in the exhibit. I unfortunately don't have it with me, Mr. Norman.

Q. Well, value added by manufacture in the southern states is substantially lower in proportion to the total than the population of the southern states is to the total population, isn't it?

A. That may be, yes, because we are largely agrarian, agricultural section in the South.

Q. You have gone to great lengths here to try to prove you are a great industrial section, and these figures would seem to establish the contrary.

A. They seem to establish to me, Mr. Norman, this, in answer to your question, that my purpose was to show the trends in the decade 1929 to 1930, in Southern territory. Now, that is the major purpose.

Q. That may have been your purpose, but the figures do establish this other fact, don't they?

A. Well, I——

Q. Now, let's look at that trend a minute about population. Take the Southern territory that you have there. For the last 20 years, for the last 30 years, beginning 1900—the last 40 years, 1900, the population in the South has dropped from 20.2 to 18.2. Take Official territory, it has only [fol. 3143] dropped from 49.4 to 48.7 and in the last 30 years it hasn't dropped at all. That would indicate that it is the South that has been losing, wouldn't it?

Mr. McCollester: What page have you got?

Mr. Norman: Page 5.

The Witness: Not necessarily. You get the further trends on sheet 4, at least from 1920 to 1940.

By Mr. Norman:

Q. Turn to page 20, where you show that the southbound traffic was rated 38.6 per cent of the K-2 first class, whereas northbound it was only 24.7 per cent; and you were casting around for some explanation of that and arrived at the probable conclusion that it was because northbound rates were lower. Did you give any consideration to the fact, as shown by the record here, that the combination of the southbound traffic is of much higher grade than the northbound?

A. I said that, sir.

Q. I didn't understand you to say it. You may have. Don't you think that may be the controlling factor there?

A. Why, it is the reason why our southbound levels are so much higher than the northbound.

Q. It is the reason?

A. Yes.

Q. I thought you said you thought our northbound rates were so much lower.

[fol. 3144] A. Well, they are. They are, too. The northbound level is amazingly low, considering the type and the character of traffic, which is further explained in the 1939 test.

Q. Mr. Widell, you say that we—and you say we are the South, that we make our rates as we go, like a tractor lays its track. Now, how does a small shipper go about laying his track as he goes?

A. The same way.

Q. Who doesn't have any Mr. Widell or Mr. Ribe to help him lay it?

A. Or Mr. Norman, probably.

Q. Or me.

A. All right. This is what we do, Mr. Norman. You ask me, what does a small man do. All right, we have a small casket manufacturer at Cleveland, Tennessee. He came to me, he said, "What shall I do? I want to reach Washington, D. C. I want to reach——"

Q. He knew how to lay his track; his track led to you.

A. All the years that he had been shipping, he said that he couldn't go places. Inside of six months he could go almost any place he wanted.

Two weeks ago, three weeks ago, in Nashville a manufacturer called me up and said, "Can you come over?" I went over and found that he was shipping 100 carloads and innumerable shipments of less carloads of a new antifreeze. [fol. 3145] I was amazed. But he said, "I find that I am not in the antifreeze list of alcohols," or his competitive item, thylene glycol. He said, "Why haven't I got rates?" I said, "You have never asked for them." I said, "Let's go over and ask." I knew what was involved in that because I had much to do with the development of the antifreeze rates in the South. We are getting his rates. There is no trouble, Mr. Norman.

Q. Now, Mr. Widell, you might tell that to somebody else that it is no trouble. You know that I know better than that, because I have tried many, many times. I know how much trouble it is.

A. I am speaking to you, Mr. Norman, from an industrial background in transportation.

Q. Now, let me ask you this: You think it wouldn't be better to have an adjustment which everybody, would be available to everybody, and you wouldn't have to negotiate it each time you wanted to start a plant?

A. In our opinion, it is not necessary to do it this way, sir.

Q. Now, you filed here a statement of position on the part of the Southern States Industrial Council. That is signed by Mr. John U. Barr, Chairman of the—

A. No, it is signed by me, sir. I filed this statement. That was merely for identification purposes, if the question was raised as to who is the directing head of the Transportation [fol. 3146] Division of the Council, but this is my statement, on behalf of the Council, not Mr. Barr's.

Q. Is Mr. Fitzgerald Hall, the president of the N. C. & St. L., president of the Southern States Industrial Council?

A. No, sir.

Q. Well, he was, wasn't he?

A. Some years ago he was, for one year. Let me tell you who is president of the Council, sir.

Q. Yes, certainly.

A. Mr. Rush Cole, vice president, Monsanto Chemical Company, main office, St. Louis, Missouri. Mr. Barr, whose name is shown there for identification purposes as chairman of the Transportation Division of the Council, is vice president for Louisiana, Mississippi and Texas. He is general manager, Federal Fibre Mills, New Orleans, Louisiana.

Q. And the Council is composed, largely, of large industries in the South?

A. Small ones and large ones. The general constituency will run probably to 5700.

Q. You say that, in your opinion, the Southern Governors Conference does not represent the position of the South in this case?

A. The southern industry.

Q. Well, you said you were the South.

A. I said southern industry. I think the record will bear [fol. 3147] me out.

Q. Did you say "We are the South"?

A. Beg your pardon?

Q. Didn't you use that term, "We are the South"?

A. Yes, I used that term. I take a pride in it, sir.

Q. Why is it all these years, if you are the South, you haven't been able to elect a governor of a single state that agrees with your viewpoint?

A. Let me answer that, Mr. Chairman.

Chairman Aitchison: Yes, I think you are entitled to.

The Witness: Are you familiar with Governor Browning's handling of this class rate investigation at the time that it was a matter of——

Mr. Norman: Yes, I am familiar with it. I know all about it.

The Witness: Mr. Chairman, preceding Governor Cooper, than whom there is no finer Southern gentleman, was Governor Robert Browning, who was chairman of the Class Rate Committee, in the same position that Governor Cooper now operates.

Com. Alldredge: It is Gordon Browning.

The Witness: I beg your pardon, Gordon Browning; will you change that. We had—that is, we, I include myself, I had personally a number of conferences with others, with Governor Browning. And we laid before him the viewpoint of industry in Tennessee and we asked him if it would be [fol. 3148] possible for him to consider that——

Chairman Aitchison: I think we will drop the whole thing, going back and including Mr. Norman's question.

Mr. Norman: If he goes ahead, I will have to make another statement.

Chairman Aitchison: I think we will stop there. Anything further, Mr. Widell? You are excused.

(Witness excused.)

Chairman Aitchison: Mr. Glenn.

William W. Glenn was sworn and testified as follows:

Direct examination.

By Mr. Widell:

Q. Mr. Glenn, will you give your full name and address.

A. My name is William W. Glenn. My residence is Nashville, Tennessee.

Q. What position do you occupy and with whom?

A. My present occupation is that of traffic manager of the Tennessee Products Corporation.

Q. And will you state how long you have been with them and your other experience, briefly.

A. For approximately the last two years, I have been serving in my present capacity. Prior to that time, for a period of about five years, I had direct contact, representing various shippers and receivers of freight in the Birmingham [fol. 3149] District and in other parts of the South, in general traffic matters.

Q. Now, will you explain just briefly——

A. Pardon me. Prior to the six-year period——

Chairman Aitchison: Unless there is question about the gentleman's qualifications, we will go on. Consider them as established.

By Mr. Widell:

Q. We will just go on, Mr. Glenn. Will you state briefly the character of the Tennessee Products Corporation's business.

A. Yes. The Tennessee Products Corporation is rather unique in its operations.

Chairman Aitchison: We don't want any advertising. What does it produce?

The Witness: It produces at its plant at Lyles, Tennessee, pig iron, charcoal, acetic acid, methanol and creosote oils and hardwood oils. At its Rockdale and Rockwood, Tennessee, plants it produces ferro-manganese and mineral wool insulation. At its Chattanooga plant it produces by-product coke, benzol, toluol, xylol; and at its mines at Whitwell, Tennessee, of course it produces coal.

By Mr. Widell:

Q. Now, at any of these places, do you have villages or towns that you operate and own?

A. Yes, we do. At the Lyles, Tennessee, operation, at the village called Wrigley, we practically own that settle-
[fol. 3150] ment of approximately 500 population.

Q. Is the same thing true at Rockdale and at Whitwell?

A. The same thing is true at Rockdale and Whitwell.

Q. Do you operate large department stores?

A. Yes, at Lyles, Whitwell, Rockdale and Rockwood. We do not operate stores at Chattanooga.

Q. Now, the inbound movement is quite large, is it?

A. Yes, the inbound movement, of course, to the plant, is principally what we would call the raw materials on our lower-rated commodities. However, in our stores we have a varied movement, moving on class rates into these stores, everything that you would ordinarily find in a department store.

Q. Do you move both carload and less carload?

A. Yes, we do.

Q. Do you move large quantities of mill supplies, machinery, to all these plants?

A. Yes, sir.

Q. Where does it come from, largely?

A. Principally from the Official territory.

Q. It moves on class rates, does it?

A. Yes.

Q. Do you know of any other of these industries that you speak for, for instance, any of the lumber concerns that operate somewhat along the same lines?

A. Well, I don't know—did you have anything particular [fol. 3151] in mind?

Q. Yes, this plant, say, at Century, Florida.

A. That is the Alger-Sullivan Lumber Company. Yes, I am familiar with that operation.

Q. Are they just a sawmill or what do they operate in connection with their lumber mills?

A. Well, they operate practically the entire town.

Q. How big is it, approximately?

A. I would say the population, approximately—they own and operate the groceries, the drug stores and most all of the industry in the town.

Q. At Rockwood, Tennessee, do you have groceries there and supply the surrounding territory?

A. Yes, we do.

Q. Do you do the same at Rockdale?

A. Yes, sir.

Q. So that you are, then, interested in class rates as such, are you not?

A. Very much so, yes, sir.

Q. In your opinion, Mr. Glenn, based upon your experience with these corporations and industries you have been with, is the present class rate adjustment responsible in any way for retarding industrial development in the South?

A. No, sir.

Q. Do you know of any industry——

[fol. 3152] A. Not to my——

By Chairman Aitchison:

Q. Not to your what?

A. Not to my best knowledge, it is not.

By Mr. Widell:

Q. Do you know of any industries, Mr. Glenn, that come within your knowledge that have either closed down because of our southern class rates——

A. I do not, no.

Q. —or have refused to establish themselves because of our southern class rates?

A. No, sir.

Q. Is there anything else that you would like to add, Mr. Glenn?

A. Yes, just a little statement. I had, of course, in mind that the principal issue involved here, or the principal thing for determination, was whether or not the class rate structure, the present class rate structure was retarding the industrial development of the South. In that connection, I was very much interested in the statement made this morning by counsel for the Southern Governors to the Chairman, in which he stated that the consumers, I believe, would be the principal benefactors in a reclassification of the rates or revamping of the class rate structure. That is all, sir.

Q. That is all you have in mind?

A. Yes, sir.

Mr. Widell: That is all.

[fol. 3153] Chairman Aitchison: Cross-examine.

Mr. Grubbs: May I just ask one question here?

Mr. Norman: Sure, go ahead.

By Mr. Grubbs:

Q. You are a consumer, is that right?

A. Yes, sir, that is right.

Q. And you are, as a consumer, satisfied with the present class rate structure, is that correct?

A. That is correct.

Mr. Grubbs: That is all, thank you, sir.

Chairman Aitchison: All right, Mr. Norman.

Mr. Norman: Oh, I won't ask him anything.

Chairman Aitchison: Step aside, Mr. Glenn.

(Witness excused.)

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: Mr. Wells.

Mr. Donnelly: The witness' name is Wells, and the exhibit has a mimeographed map on the first page.

JOSEPH M. WELLS was sworn and testified as follows:

Direct examination.

By Mr. Donnelly:

Q. Your full name, Mr. Wells?

A. Joseph M. Wells.

Q. With what company are you connected?

A. The Homer Laughlin China Company of Newell, West Virginia.

[fol. 3154] Q. Speak a little louder, if you can.

A. Homer Laughlin China Company, Newell, West Virginia.

Q. What length of time have you been with that company, Mr. Wells?

A. About 30 years.

Q. And what is your present capacity with the company?

A. Secretary-treasurer and general manager.

Q. Is that a large or a small pottery?

A. It is the largest pottery in the world.

Q. What are the chief products?

A. General dinnerware for the table.

Q. And that all comes under the general heading of pottery, does it not?

A. That is right.

Q. For whom are you appearing here, Mr. Wells?

A. Representing the United States Potteries Association, with headquarters at East Liverpool, Ohio.

Q. Can you tell us about what per cent of the total production of potteries is represented in these members?

A. Between 90 and 95 per cent of the total domestic production.

Q. Are you familiar with plant production and distribution?

A. Yes, sir.

Q. And is that true not only for your own company, but you have a general knowledge of that of other companies?

[fol. 3155] A. That is right.

Mr. Donnelly: Mr. Chairman, Mr. Wells has an exhibit and I am not offering him as a rate expert, but the only rates in the exhibit are those which are shown on the three last pages, which are applying to raw materials, and they are shown only for the purpose of showing what the

raw material rates are from those particular points. And the products of the pottery business that he represents all move on the class rates in all territory.

(Exhibit 155, Witness Wells, marked for identification.)

Chairman Aitchison: Exhibit 155——

Mr. Donnelly: Is offered.

Chairman Aitchison: Is there objection? (No response.) It is received.

(Exhibit 155, Witness Wells, received in evidence.)

By Mr. Donnelly:

Q. Will you look at your Exhibit 155, Mr. Wells, and tell us about where the potteries of the United States are located.

A. Well, as indicated on the exhibit, the potteries, the largest production is represented in eastern Ohio, western Pennsylvania and northern West Virginia.

Q. And what particular part of the country produces the largest volume of pottery?

A. The larger volume is produced in the East Liverpool [fol. 3156] district, which includes Chester, West Virginia, Newell, West Virginia.

Q. Will you tell us, please, at what places have new potteries been built within the last 15 years?

A. To my knowledge, there has been no new pottery of any consequence built in the last 15 years anywhere in the country.

Q. Can you say about what the expansion program has been with potteries already in existence?

A. It has been a very modest one. There have been expansions on the part of certain firms. There have been a number of cases where firms, a whole group of firms were put out of business at one time when an attempt was made to form a combination and three or four of the pottery—that combination went into bankruptcy. Potteries were all closed down. There were three or four of those plants that have been reconverted and improved and started again, as an individual company, but not more than three or four.

Q. How do you account for the fact, if you do, that potteries have not been built in the southern states, except in one as noted on the map, in eastern Tennessee?

A. Well, the only answer I know to that is the same reason that they haven't been built in the North, that there hasn't been sufficient probability of any person going into the pottery business making any sort of return on the investment to justify new capital going into that particular [fol. 3157] business. I know of no other reason.

Q. And your exhibit shows, at pages 3, 4 and 5, that the raw materials used in the pottery trade to a large extent are produced and shipped from the South, does it not?

A. Yes. The raw materials that come from the South are the china clay and the ball clay, chiefly.

Q. And what are the raw materials that are used in the making of pottery?

A. Well, the three basic raw materials are clay, feldspar and flint sand.

Q. And does this exhibit, pages 3, 4 and 5, show the origin of those materials?

A. Yes. It shows the origin, the chief points of origin of all of those three materials.

Q. Then why is it that potteries are not always built near the source of the raw materials?

A. Because the cost of the raw material in the pottery business is a very small one in proportion to the total cost. The potteries employ a very large proportion of skilled labor and it has been, since the first pottery started in this country, the habit of pottery manufacturers to go to the districts where they could obtain labor, skilled labor, and not have the necessity of teaching labor.

Q. Well, does that mean, then, or is that the reason, rather, why you do not consider freight rates are a material [fol. 3158] control on the location of potteries?

A. Yes, that is it exactly. The freight rates of raw materials form an almost infinitesimal part of the total cost of manufacturing dinnerware and they are of no serious consequence at all.

Q. Where are the products of the potteries marketed?

A. In all states of the Union, and a very small part is export.

Q. Has the production been sufficient to meet the demands?

A. At the present time it isn't, just as it wasn't during the last war, when all exports are shut off. The present production of the domestic potteries is not sufficient to meet

the domestic demand at the present time. Under normal conditions, when there is imported into this country a third of the total amount of ware that is used in this country, then the present production facilities are entirely, are more than adequate.

By Chairman Aitchison:

Q. You said "exports," you mean imports?
A. Imports.

By Mr. Donnelly:

Q. Then the quantity of pottery that is imported in normal times is really the control, is it not, of the sales?
A. Entirely; almost.

Com. Alldredge: I didn't understand that.

[fol. 3159] (Record read.)

By Com. Alldredge:

Q. The importations fix your market, is that right?
A. I am sorry, I didn't get that.
Q. The importations determine the market?
A. That is exactly right. The importations are such and at such prices that the market is actually controlled by those importations, because it is impossible for the American manufacturer to compete with the importations on similar products, similarly decorated, similarly made.
Q. They have come mostly from the Orient, haven't they?
A. During the last 20 years, the chief source of the importations of potteries has been Japan. Before that it was Germany, before that it was England; but Japan is now—has been, before this war, importing about 75 per cent of the entire importations.

By Mr. Donnelly:

Q. Did you hear Mr. Ribe's testimony, Mr. Wells?
A. Only a part of it.
Q. You heard the concluding part of it?
A. Yes.
Q. Pertaining to the investigation he made as to the location of potteries in the South?
A. Yes.

Q. Do you think that pottery can be made in the South [fol. 3160] at as low a cost of production as in the North?

A. I shouldn't think there would be a great deal of difference in the cost of production. There would be, of course, if, as has happened in one or two instances, that potteries have been started outside of the districts where they are concentrated at present and have been operated on a non-union basis. There is only really one of those potteries operating, but their wage scale for their labor, which constitutes about 65 per cent of the total cost of pottery, the wage scale in that non-union plant is materially below the wage scale in our plants, where we deal and have collective bargaining with an A. F. of L. union and where the cost of labor or where the percentage of labor cost is so high, it is obvious that if a plant is manned and operated by employees who are not obtaining as high wages as those in the union plants, then the pottery can manufacture at lower costs; but it is highly improbable, under the present national situation, as far as union labor is concerned, that a new pottery could start without having their employers in the Pottery Workers Union.

Q. Do the freight rates on the pottery, that is the finished goods, have much effect upon the sale of them or the places where markets are found?

A. I would say practically none at all. I have never known an instance, in selling millions of dollars worth of pottery products, where the matter of the freight rate that [fol. 3161] existed from the manufacturing point to the delivery point had anything whatever to do with the sale.

Q. What does have to do with it?

A. Well, dinnerware is a style product and there are no two potteries that manufacture the same shapes, the same decorations or the same colors, and the matter of one pottery being able to market their product successfully is whether or not they are producing something that is desirable by the buyers for the department stores and chain stores and what not, who, in turn, of course have to buy something that is acceptable to their customers.

Q. Very good, Mr. Wells. I want to show you Mr. Spottswood's Exhibit 76, at page 26 on Appendix C, in which there is shown a list of seven points of origin of chinaware, in which rates are shown, and ask you what

potteries are located at Nashville, Memphis, Chattanooga, Atlanta, Birmingham, Macon and Meridian, Mississippi?

A. I have no knowledge of any pottery being located at any of those cities. I am sure I would know about it if there were.

Q. Now, what is your position——

By Com. Alldredge:

Q. There is one at Atlanta, isn't there?

A. Atlanta was not mentioned, was it, in that list, Mr. Donnelly?

By Mr. Donnelly:

Q. Yes, Atlanta, Georgia.

A. Yes, there is the Bauer Pottery Company that has [fol. 3162] recently started to operate there and is making, in very small quantity, as I understand it, heavy hotel dinnerware, for the Army, chiefly, at present.

Q. Do you know when they started operation?

A. I think I first heard of them about a year ago.

Q. Did you ever hear of a pottery at Gordon, Georgia?

A. I heard at one time a great deal about a pottery that was going to be started there, but it is my present information that pottery never went into operation.

Q. Now, Mr. Wells, as to your position in this case, as I understood you to say, you are here not to protest but to protect the rates and ratings that you now have and ask this Commission that they not increase the freight rates that are applicable on the pottery that you ship?

A. We are, naturally, very hopeful that that will not happen, Mr. Donnelly, because it would be—any increase on the rates at present, from the potteries located where they are, would mean higher prices or higher landed costs to the concentrated population districts along the eastern and western seaboards, that would be a further handicap in our meeting the competition that will inevitably occur when the war is over from foreign countries.

Q. Do you have any further statement?

A. Nothing at all.

Mr. Donnelly: The witness is offered for cross examina-
[fol. 3163] tion.

Cross-examination.

By Mr. Norman:

Q. I would just like to know how to reconcile that last statement of yours with the previous statement to the effect that freight rates didn't make any difference at all in selling pottery.

A. I merely am making the last statement from the position of our customers, who would have to pay more to land them in their stores and which, inevitably, would mean a higher mark-up. It wouldn't affect their purchase of individual patterns at all.

Q. But you said it would affect your selling them as against the importations, didn't you?

A. It would affect their selling prices to their customers, and it would inevitably mean more importations at lower prices.

Q. And therefore it would affect your ability to sell?

A. No, I don't think so. If I said that I didn't intend to mean it.

Mr. Donnelly: You didn't say that, Mr. Wells.

The Witness: The price of the merchandise at the factory is the determining factor.

By Mr. Norman:

Q. But if the freight rate doesn't make any difference in the sale of pottery, why do you care so much if there should be some increase in freight rate? You say you do [fol. 3164] object seriously to the increase. Why, if it doesn't have anything to do with it?

A. If there is no other reason, I would object because it would mean a higher price to the consumer.

Mr. Norman: That it all.

By Chairman Aitchison:

Q. Mr. Wells, I am not sure that I got your name correctly.

A. J. M. Wells.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: On the record.

By Chairman Aitchison:

Q. What railroad it that on, is Newell on?
A. The Pennsylvania.

Chairman Aitchison: That is all. You are excused.

(Witness excused.)

N. W. Ford was sworn and testified as follows:

Direct examination.

By Chairman Aitchison:

Q. Your name is N. W. Ford?
A. Yes, sir.
Q. You are traffic manager of the Manufacturers Association of Connecticut, Inc., of Hartford, Connecticut?
A. Yes, sir.
Q. You live in Hartford, Connecticut?
[fol. 3165] A. Yes, sir.
Q. You have prepared this statement, have you?
A. Yes, sir.
Q. It has been distributed for some little time?
A. Yes, sir.
Q. If you were asked about the matters in this statement separately, would your answers be as stated here?
A. Yes, sir.
Q. And you desire to have this put in the record as your statement?
A. That is satisfactory to me. I would like to add just one section.

Chairman Aitchison: If there is no objection, then this may be copied in.

(The statement is as follows:)

I have been engaged exclusively in industrial traffic work for the past 23 years. Following a brief period spent with a freight auditing company, I was employed as assistant traffic manager of the Winchester Repeating Arms Company of New Haven, Connecticut, for 9 years and since 1929 have been engaged in my present capacity as traffic manager of The Manufacturers Association of Connecticut.

This is a voluntary organization, embracing within its membership virtually all eligible industries of any importance throughout the state, large or small. The 850 manu- [fol. 3166] facturing concerns comprising its membership normally employ over a quarter million workers and represent a billion dollars of invested capital. The Association's transportation activities are carried on through an active traffic committee, which recommends to the board of directors a course of action dealing with transportation matters.

Classification: It is the opinion of industry in Connecticut that there is no immediate need for bringing about complete uniformity of the classification ratings in the various territories even though it is recognized that, based on past experience, any general revision of ratings would probably be accomplished by adopting the lowest rating applicable in any of the three territories for publication in each of the territories.

On the other hand, it is recognized that considerable progress has been made in the past few years toward bringing about uniformity of ratings and that, in any event, complete uniformity would not be desirable if it were to preclude the possibility of establishing different ratings for the same commodity in the various territories, as such action would not permit the railroads to give any consideration to meeting the competition of other modes of transportation nor would it allow the carriers to consider the special conditions that frequently confront a shipper in a single classification territory and that are not present in [fol. 3167] the other territories and therefore would not require similar treatment.

Any freezing of classification ratings for the mere purpose of maintaining uniformity would fail to meet the needs of industry and commerce with respect to the movement of particular commodities. Such uniformity would be equitable only if the movement of traffic in the several territories were of like kind and character and moved in equal volume between points in each territory. There is a complete lack of any demand for uniformity of classification ratings on the part of shippers in Connecticut.

Rates: At the time the rates resulting from the Eastern Class Rate Case decision became effective December 3, 1931, there was some dissatisfaction with the structure. How-

ever, during the years that have intervened, the carriers have cooperated with the shippers in making necessary adjustments until today the shippers in Connecticut, with certain minor exceptions, are generally satisfied with the level of rates now maintained between points in Official territory. There will, of course, be a continuing need for further adjustments to meet changing conditions. Based on past experience, it is certain that any major revision of rates at this time will not only disturb present economic conditions but, of even greater importance, is the fact that such changes would create an entirely new situation with which manufacturers would be confronted in their attempt to return to [fol. 3168] their pre-war production following the conclusion of hostilities. This is a matter of no small importance when we recognize that many manufacturers have been obliged during the present period to completely convert their plants from peace-time to war production. This has, in some instances, necessitated the discarding of practically all the company's normal equipment and machines. Following the conclusion of the war, it will be necessary for the management of these companies to decide whether they will return to the production of their former peace-time line of merchandise or if they will enter an entirely new field. Their markets will, of course, have been dissipated and, if transportation rates have been substantially revised, they will not even have the benefit of this basic data upon which to decide their future action.

As illustrative of this situation, I might cite the clock industry which is very largely centered in Connecticut. Due to limitation orders on the use of brass, steel and zinc, there are practically no clocks or watches being manufactured at the present time. These plants are now producing time fuses and other war materials. Their reserve stock of raw materials, such as brass, and even the partially manufactured parts and assemblies, have been taken over by the Government to be remelted for use in war industries. Whether or not these companies will return to the manufacture of clocks and watches after the war is a question that [fol. 3169] cannot even be answered at this time by the management of these industries. No new obstacles should be placed in their way to add to the tremendous problem already confronting them.

It is the opinion of those whom I represent that only by coincidence could any general revision of freight rates at

this time reflect the commercial needs of the country for the period following the war. Individual adjustments should continue to be made to meet the needs of industry and commerce. In no event should any increase of rates in Official territory be allowed at this time merely for the purpose of bringing about a greater degree of uniformity in the rate levels that prevail in the various sections of the country. Under present circumstances, any such increases of rates would, in our opinion, be purely artificial and would not reflect the financial needs of the carriers in Official territory.

Chairman Aitchison: Now, proceed.

The Witness: In connection with the matter of classification, I would just like to add that Connecticut industry is completely opposed to the position taken by Witness Jackson with respect to the application of a uniform classification for motor carriers and railroads. That is all.

By Chairman Aitchison:

Q. Why?

A. Because we believe that density is a predominating factor in connection with the movement of goods by motor truck but that it is not nearly as important a factor in the [fol. 3170] transportation of merchandise by railroad. The reason for that, again, is because of the size of the unit of transportation. The smaller the unit of transportation, the greater importance density becomes.

Q. You are speaking of less than carloads?

A. No, sir.

Q. Both?

A. Yes, sir.

By Com. Alldredge:

Q. By the way, you have two kinds of motor classifications in your territory, don't you?

A. Well, within New England we have a classification that it based primarily on density. Then we have interterritorial traffic from New England to points outside of New England that is governed generally by the National Motor Freight Classification.

Q. Is it correct to assume, then, that you don't like that classification enough to have it based primarily upon densities?

A. We do like the one that is based upon the density and we don't like the one that reflects the railroad classification ratings.

Q. Oh, you prefer to have a motor carrier classification based upon the principles advocated by Mr. Jackson but you want the rail classification based upon different principles, is that it?

[fol. 3171] A. Well, Mr. Jackson primarily said that there should be uniform classification ratings for both. We don't agree with that. We do think that density is a basic factor in the determination of classification ratings for motor carriers but not for railroads.

Com. Alldredge: That is all.

Chairman Aitchison: Does anyone desire to cross-examine the witness? (No response.) You are excused, Mr. Ford.

(Witness excused.)

Chairman Aitchison: Mr. Ferguson.

A. H. Ferguson was sworn and testified as follows:

Direct examination.

By Chairman Aitchison:

Q. You name is A. H. Ferguson?

A. Yes, sir.

Q. And you are here for the Boston Chamber of Commerce, the New Bedford Board of Commerce and The New England Traffic League?

A. Yes, sir.

Q. You have had long experience in transportation?

A. Yes, sir.

Q. You have prepared a short statement from which you wish to testify?

A. Yes, sir.

Chairman Aitchison: Any objection, gentlemen, to this [fol. 3172] being copied in, commencing with the words "New England organizations"? (No response.) There seems to be none.

(The statement is as follows:)

New England organizations represented take the position that the present classifications and class rate structures,

which have been developed after many years of practical experience and study—by the carriers, shippers and the Commission, are and have been generally satisfactory. They do not agree that what imperfections exist are sufficiently material to justify any further upheaval in the industrial situation, which must result from a radical revision of the classification ratings and class rate structures designed to attain the seemingly ideal of uniformity. With the entire industry of the country primarily engaged in the furtherance of the war effort, and its attention devoted to the heavy problems this has raised, it is no time to add to their burdens by imposing on them the effects of a disruption of the existing classification and class rate adjustments.

These New England interests willingly admit that there may be imperfections in the present classifications and class rate structures but they are firmly convinced that any such imperfections may be rectified by cooperative efforts of those interested through the usual procedure. They do not believe that the principal products of either the South, Southwest or West are meeting any serious difficulties in [fol. 3173] reaching the markets of supply and demand within Official territory. Any instances that may be pointed out in the testimony of record in this case are what may be termed exceptions to the general situation and they occur in every traffic section by reason of certain more important economic reasons than freight rates. In other words, freight rates are, in our opinion, the least important part of the entire picture of the competitive situation that is involved.

Present classifications and class rates do not appear to prevent the regular a d substantial movement of manufactured products of the South into New England markets. Surveys made indicate such products are marketed very largely in New England cities. This is especially true of cotton goods, cotton clothing, cotton rope, furniture, paper products, etc.

To attain the ideal of uniformity of industrial development and progress, it seems necessary to consider the economic advantages or disadvantages of the several competitive manufacturing sections. Otherwise, the single consideration of freight rates and the need of their equalization to bring about the greater development of industry in any particular section or sections may result in a most serious displacement of the industries in another section. Much has been said about the difficulties which confront the

South and Southwest in the development and location of new industries within their respective sections because of [fol. 3174] the differences existing in the governing classifications and levels of the class rates applicable within and from those sections to Official territory as compared with those observed within Official territory.

In the first place, there has been a decided lack of information relative to the particular manufactured articles which are or would be affected by the present differences in the class rate levels of the several competitive sections. In the second place, it has been New England shippers' observation during the past 15 years that once a New England plant established a branch in the South, it thrived so well in southern soil that the entire plant was soon located there—to New England's loss. Such instances do not prove that the single element of freight rates, class or otherwise, either influenced this relocation of industry or prevented New England from retaining that industry.

By Chairman Aitchison:

Q. Have you anything to add to this, Mr. Ferguson?

A. Well, I wish to subscribe, on behalf of the other New England organizations, to the statement of Mr. Ford and the verbal statement that he made, because we are all on record in favor of that New England motor classification, based on the primary element of density.

I might also add that as a relatively small but highly industrialized section, New England has been and is the pot [fol. 3175] of gold at the end of the rainbow which other less industrialized sections always seek. But may we add, they do succeed in obtaining some of the gold.

Chairman Aitchison: Any cross-examination of Mr. Ford?

Mr. McCollester: I have a couple of questions, Mr. Commissioner. I don't know whether they are cross, probably more like direct.

By Mr. McCollester:

Q. Mr. Ferguson, is it not a fact that during the past 15 years, New England has suffered a very serious loss of industries to the South?

A. That is right. In the textile industry alone, we have lost, within the New England states, 356 mills operating 12,787,066 spindles, which affected 138,568 employees.

Q. What is your opinion as to whether the freight rate situation was a factor in that movement of industries from New England to the South?

A. The freight rate cost was not a factor at all, either in drawing that industry to the South or preventing it from leaving New England.

Q. Have you any specific examples to illustrate that point?

A. Why, yes. We had a mill at New Bedford manufacturing cheesecloth. Cheesecloth was made into gauze and surgical dressings, after finishing at Slatersville, Rhode Island, and Walpole, Massachusetts. In 1940, production of that mill was transferred to a South Carolina mill and they [fol. 3176] send that product up, cheap product, cheesecloth, back to Slatersville, Rhode Island, and manufacture it at Walpole, Massachusetts.

I could cite two other similar instances. A mill manufacturing tire fabric went into Akron. The mill was liquidated, most of the best machinery sent down to Cedartown, Georgia. Similarly, we had a nationally-known blanket manufacturer. Its roots became established in one of the Carolinas and the whole plant moved there in 1934. It still ships blankets back to a small portion of the plant, which is used as a warehouse for distributing purposes.

I may state that actually there were 19 removals of cotton mills from Massachusetts to the South, but that does not give you the entire picture. Many plants established branches down in the South, and before you know it, all their operations are moved there. In fact, even the capital that is obtained by the liquidation of these mills was used for the organization of mills in the South.

The cities of Fall River and New Bedford were the largest cotton mill industrial cities in the United States and probably in the world. New Bedford lost over 69 per cent of its mills in the period since January, 1921. 22 corporations, operating 55 miles units, having 2,302,296 spindles, 34,128 looms, hiring 29,360 employess, were liquidated during that period from January 1, 1921.

Q. What happened to the employees, Mr. Ferguson? [fol. 3177] Did they move with the mills to any large extent?

A. No, sir. Only in one instance do I know of that cer-

tain employees were taken down to the southern mill location.

By Chairman Aitchison:

Q. Why did these mills move, if you know?

A. Why, yes, I know but I didn't think I was supposed to answer that. They moved because of the lower cost of operation.

Q. Meaning labor?

A. Labor; lower cost of manufacturing.

Q. Did the National Labor Relations Act interfere with that at all?

A. Not at all.

Q. Were they unionized in the North?

A. Very highly, very strongly.

Q. Did they have operating contracts?

A. They do.

Q. Is a concern having an operating contract of that character free to pick up and go to some other place and start using non-union labor?

A. That has been the case in the past, sir, and probably was one of the elements that forced the movement of industry from New England.

Q. When was this?

A. This occurred during—primarily all of this occurred [fol. 3178] during the past 17 years.

Q. That is a long time. What part of the past 17 years?

A. Well, off and on. They gradually dropped off, one after another.

Q. Still, that is not very definite.

A. I will try to make it——

Q. Can you give us a better idea? Is it going on now, has it been going on recently, or has it been going on since the National Labor Relations Act was passed?

A. Yes, sir. Since 1932, New Bedford lost ten corporations, 17 mill units, 642,670 spindles, operating 16,271 looms. And I might state that Fall River, the city of Fall River did the same.

Q. Well, take New Bedford.

A. Yes, sir.

Q. You have given ten years. Can you locate the loss a little more closely with reference to time?

A. I have just given you from January 1, 1932, just stated that for the past ten years.

Q. That is ten years and nearly eleven. Now, do you have anything which will show during what part of that 10-year period the change was made on account of lower operating cost of labor, I think you said?

A. I haven't any direct figures showing that.

Q. Do you know what the fact is?

[fol. 3179] A. As to what, Mr. Chairman?

Q. As to what part of this 10-year period the move took place.

A. Throughout the period, throughout that entire period these losses occurred. Now, I can't pin it down to any particular year.

Com. Alldredge: May I interject?

By Com. Alldredge:

Q. Within that period a minimum wage level was established all over the country fo. those operators.

A. Yes, sir.

Q. I think that is what the Chairman is trying to point out. What effect does that have?

Chairman Aitchison: Yes.

By Chairman Aitchison:

Q. Also whether or not the operating agreements which have been entered into—you say this is highly unionized and they all had operating agreements—whether these concerns are now permitted, under the National Labor Relations Act, to get out of an operating arrangement by closing the factory and going to somewhere else.

A. Well, that is only within the recent——

Mr. McCollester: I don't agree with you that there is anything in the National Labor Relations Act that prevents a company from closing a plant and moving somewhere else. They are doing it all the time.

Chairman Aitchison: Well, it is done without authority.

[fol. 3180] Mr. McCollester: We had a case, a client of ours within the past six months, that had a National Labor Relations Board order against them. The plant was shut and they have opened somewhere else. They did that under directions of the War Department.

Com. Alldredge: Have they heard the last of it?

Mr. McCollester: I don't know.

Chairman Aitchison: Well, there have been cases, haven't there, where the National Labor Relations Board have found that to be an unfair labor practice?

Mr. Norman: Yes, and have been sustained, too.

Chairman Aitchison: They had to pay back wages.

The Witness: Well, this Kendall mill ceased its operations in 1940.

By Chairman Aitchison:

Q. That is what I am trying to get, whether this is something new, something recent that is going on now, or are you taking something that occurred some considerable time ago?

A. Well, on account of war conditions, if it wasn't for the war conditions, we would be still losing them. I can say that with confidence. It is only because of the war orders that the remaining mills at New Bedford are receiving, that they are still operating; that when normal conditions are renewed, we are going to be up against the same thing. We can't compete. Our cotton must come [fol. 3181] from the far distant Southwest, the Mississippi Valley. And as for the Minimum Wage Law, it didn't have very much effect on New England mills at all, because our mills pay higher wages and have——

By Com. Alldredge:

Q. It must have had its effect on the southern mills and to that extent evened up the score.

A. It didn't equalize wages.

Q. I understand it didn't fully equalize wages, but it went in that direction, didn't it?

A. Its intention was to bring up the minimum wages on and equality in all sections, that is true.

By Mr. McCollester:

Q. But your wage levels were above the minimum, were they not?

A. That is true of the higher classes of employees, the loom fixers and the weavers and so forth.

By Com. Alldredge:

Q. That would be true anywhere. The higher up the line of skill you go, the higher up they get from the minimum wage, don't they?

A. But, Mr. Commissioner, I mean the New England wages are much above those of the other sections.

By Mr. McCollester:

Q. So that despite the wage floor set by the Minimum Wage Act, it didn't prevent labor cost being cheaper in the South than in New England?

A. That is right.

By Com. Alldredge:

Q. Now, hasn't that exodus of those mills over the years that you have been mentioning been confined primarily to [fol. 3182] those producing the low-grade goods?

A. New Bedford was the city that produced the finest kind of cotton goods, mixed cotton and rayon goods.

Q. I didn't ask you about just the one place. Isn't that generally true?

A. The coarse goods went first and then the fine goods.

By Mr. McCollester:

Q. Now, Mr. Ferguson, was the purchasing power of the former employees of mills in New Bedford, *as* Fall River, as consumers of goods improved because the cotton piece goods could be manufactured more cheaply in the South?

A. No, sir. It has caused considerably injury to such New England textile cities as Lowell, Lawrence, Fall River and New Bedford because of the large relief rolls.

By Com. Alldredge:

Q. Would you make that statement if you confined it to consumers all over the country?

A. Well, yes, I believe I would. I believe in being frank and stating just what the situation is.

Q. If they reduced the cost of manufacturing, you don't think consumers anywhere would get any benefit out of it, is that right?

A. That is right.

Q. Sir?

A. That is right.

Q. The consumer is in a bad fix, isn't he?

[fol. 3183] A. Yes.

By Mr. McCollester:

Q. One other thing, Mr. Ferguson: First, on movement of industry from New England, do you know about the Glenwood Stove Company at Taunton?

A. Well, it is located up at Taunton, 23 miles *of* New Bedford, which is my home town. Yes, I know something about it.

Q. That was an important company and the stove was a stove that had a wide reputation, did it not?

A. It had a national reputation.

Q. Is that still in business?

A. Not that I know of. I don't think it is.

Q. Do you know when it went out of business?

A. Within the past year.

Q. Now, one point that the Southern Governors are making in this proceeding is that the freight rate structure prevents the marketing of southern products freely in the North. Has there been any survey made in New England as to whether southern manufactured goods are marketed in New England?

A. Everybody is pretty busy and it was rather difficult to make such surveys. Casual surveys were made at Fall River and New Bedford, which indicated that practically all of the outstanding commodities of the South were being marketed in the stores of those two cities.

Q. Have you any examples of commodities?

A. Well, all of the textiles, furniture, rugs, clothing, [fol. 3184] earthenware, gas stoves, glassware, tinware, coarse towels and spreads, blankets, woodenware, paper products. That is about all.

Mr. McCollester: That is all I have.

Mr. Bell: I have some questions.

Chairman Aitchison: Mr. Bell.

Cross-examination.

By Mr. Bell:

Q. Wages paid to labor is not the only item where the cost of production is less in the South than in New England, is it?

A. No, sir.

Q. Can you mention some of the others? How about the proximity to the cotton fields?

A. That is a very important item.

Q. How about the relative price of land, do you know anything about that?

A. No, sir, I don't know anything about that.

Q. How about local taxes, comparatively?

A. Well, there is something to that.

Q. There are other elements contributing to the lower cost of production of these mills in the South than labor, is that correct?

A. That is right.

Mr. Bell: That is all.

By Mr. Norman:

Q. With reference to this migration, as you call it, of the [fol. 3185] textile mills from New England to the South, I would like to ask you, what do you think is the economic justification for manufacturing cotton into textiles in New England, when it is furthest from the raw material and furthest from the market?

A. Well, history answers that. Cotton mills originated in New England.

Q. Well, could you attribute it perhaps more——

Chairman Aitchison: We don't want to re-try that textile case. It is before the Commission right now, Mr. Norman.

Mr. Norman: He is talking about the migration of the mills from up there as though they economically belonged up there. My point is that they ought never to have been there, from an economic standpoint.

Chairman Aitchison: I am afraid if they hadn't been there we wouldn't have had much cotton piece goods at one time.

Mr. Norman: That is true.

By Mr. Norman:

Q. Now, you take your stoves. You talk about your stove plant up there that had to go out of business. That, likewise, is a long ways from the raw materials, that you have to haul your raw materials, isn't it?

A. Oh, I don't think so.

Q. You have to haul up there from——

A. Altoona, Pennsylvania, Pittsburgh district.

[fol. 3186] Q. Then you have to haul the stoves back?

A. Well, they are scattered all over the country.

Q. And you, being 'way up there in the northeast corner of the country, on the average you are further away from the market?

A. That is New England's disadvantage, that is true.

Mr. Norman: That is all.

By Chairman Aitchison:

Q. Have you anything further, Mr. Ferguson?

A. No, sir.

Chairman Aitchison: You are excused.

(Witness excused.)

Chairman Aitchison: Mr. Russell.

Mr. McCollester: May it please the Commissioner, I am calling Mr. Russell as a witness for the State of New York, for which I appear in this proceeding. I think the record should show, however, as was to have been stated by Mr. Seal, could he have gotten here, as he hoped to do—if the hotel could accommodate him—that there is among the Trunk Line states and the commercial organizations of the various communities in Trunk Line territory a committee for cooperative action in this proceeding on behalf of all. Mr. Mace is chairman of the general committee and Mr. Seal is chairman of the steering committee.

Chairman Aitchison: S-e-a-l?

[fol. 3187] Mr. McCollester: Mr. Seal, of Baltimore. Now, while the evidence which I am going to offer will be on behalf of the State of New York, which I represent, in order to avoid duplication, it will also be considered as evidence on behalf of the other members of the Trunk Line group. We have sometimes been referred to as the Trunk Line shippers. That is not quite accurate. I represent

the State of New York and therefore all of its citizens, which include not only shippers but railroads, industries, and the communities as a whole; and our appearance here is primarily, at least mine, on behalf of New York as a state and its several communities.

I make that point further for this reason: In preparing for this proceeding, we naturally were in touch with the industries who are the shippers in New York State, and we are confronted, from their standpoint, with the very real difficulty, which I would like to have appear on this record through my statement, that every one of them, I think, without exception, with whom we talked—and our dealings were with the Associated Industries of New York—are so shorthanded, their traffic department so shorthanded, their business department so rushed with war work, that despite the importance of this proceeding, they could not spare the time to attend and present testimony in this proceeding as shippers. The war took precedence over their individual interests as to what may come out of this proceeding.

[fol. 3188] Now, as to the State of New York and the other members of our group, I want very briefly to state our position, to support which our evidence will be offered and to which it is directed. First, as to uniform classification, so far as the State of New York is concerned, and in the absence of any showing by individual industries who are the shippers, I am not in a position to take any position as to how any particular commodity should be rated or whether there should be any change in any rates. We doubt, however, the feasibility of a uniform classification and we oppose the accomplishment of a uniform classification for all territories in this proceeding, for the very reason that, as we will show, there are at the present time such variations between the classification that any attempt to work out a uniform classification, however desirable that may be for purposes of convenience or theoretically, would mean changing the relationships of commodities to each other in one or the other of the several territories; and we feel that in the absence of evidence by the interested shippers of the particular commodities that would be so affected, the Commission should not attempt to substitute its judgment as to how different commodities should be rated, if the results which are now embodied in the classification and which reflect the judgment of the Classification

committees, before whom, for the most part, the shippers have appeared and by whom they have been heard.

[fol. 3189] As to a uniform class rate level throughout the eastern part of the United States, we are opposed to that. We intend to show you and to argue more fully later that there are reasons for the territorial rate-making methods that have been pursued up to the present time, and that that being so, the rate levels in each territory must be considered in the light of all the circumstances and the needs of that territory. We intend to show you that there are differences between the territories in the nature of the traffic handled, which must bear the burden of maintaining the transportation systems in each territory and in the rate schemes of the different territories as to how that burden shall be distributed between different portions of the traffic, and for those reasons we will submit that there is no basis for working out a uniform class rate level throughout the eastern part of the United States.

Further, we will show, or we will try to show, that the fundamental premise, as we understand it, of the plea for uniformity on behalf of southern and southwestern interests, namely that the present differences in rate levels have prevented or retarded the industrial development of those regions, that that plea is amiss, that their industrial development has not been retarded, that under the present rate structure they are able to market their products in the North in competition with goods produced in the North and [fol. 3190] that therefore, if that were a basis for prescribing rates, it is a basis which does not exist, in effect.

I call Mr. Russell.

WILLIAM J. RUSSELL was sworn and testified as follows:

Direct examination.

By Mr. McCollester:

Q. Will you state your name, please, Mr. Russell, and where you reside.

A. William J. Russell, Albany, New York.

Q. What is your present official connection?

A. I am the director of the Industrial Bureau of the Division of Commerce of the State of New York.

Q. Will you briefly state your past experience.

A. I have had nearly 30 years' experience in industry and business, either directly or with organizations of business men, since receiving a mechanical engineering degree. I have worked for such representative industries as American Cyanamid Company, Miami Copper Company, International Smelting Company, Hercules Powder Company and others; and I might add, for about five years in the industrial real estate business in the city of New York.

Mr. McCollester: May Mr. Russell's exhibit be marked?
Chairman Aitchison: 156.

(Exhibit 156, Witness Russell, marked for identification.)

By Mr. McCollester:

Q. Mr. Russell, in the exhibit which has been identified [fol. 3191] as 156, have you, in Section I, embracing pages 1 to 3, caused to be stated the provisions of the statute of the State of New York creating the Division of Commerce, and then more fully the portions of the statute outlining the powers and duties of the Bureau of Industry, of which you are director, and also the Bureau of Planning?

A. I have.

Q. Will you briefly give a little of the background of the creation of the Division of Commerce or of the statute which provided for its creation.

A. The legislature of the State of New York in 1941 passed the laws creating the Division of Commerce. This followed a report by a joint legislative committee on labor and industry, which was called the Ives Committee. This committee had been in existence for several years and had been investigating generally the relative position of New York State industry as compared with other industrial states.

Q. Did the report of the committee, in general, indicate that New York's position was becoming worse from the standpoint of industry in relation to other states?

A. Generally, on a comparative basis, it did.

Q. And did it show movement of industry from the State of New York?

A. It showed not only movement of industry from the state but it also showed that many industries in the state [fol. 3192] desiring to expand went to other locations rather than remaining and making that expansion at their other plant in the state.

Q. Has the stove and furnace industry been an important one in the State of New York?

A. It has.

Q. In the past?

A. It has.

Q. What has happened, in general, to that industry?

A. It is much smaller than it formerly was. Many concerns that were formerly in the stove manufacturing business have gone out of existence. Peekskill, for example, which at one time was an important stove manufacturing city, has lost five industries that have gone out of existence in the past ten years, fifteen years.

Q. Have other industries using pig iron as one of their principal raw materials either gone out of business or reduced their operation, in competition with producers elsewhere?

A. Yes. There are several other industries, such as the pipe industry and manufacturers of cast iron, gray cast iron products, that have suffered very materially from that competition.

Q. Has New York State also lost textile industries?

A. Yes, it has.

Q. Where have they gone?

A. Well, generally speaking, to the South.

[fol. 3193] Q. Now, Mr. Russell, as part of your functions as director of the Bureau of Industry of the New York State Division of Commerce, both for the purposes of this case and as part of your general duties, have you made or caused to be made under your supervision a survey to determine whether products of southern manufacture are sold in the State of New York at the present time and whether New York manufacturers, in marketing their goods, encounter competition from southern manufacturers of similar goods?

A. I did.

Q. Have you embodied the results of hat survey in the exhibit which is marked Exhibit 156?

A. Yes, they are embodied in that exhibit.

Q. Now, referring to that exhibit, will you describe how the survey was conducted and, in general, what the conclusions were which were reached as a result; taking up first what is marked Section II, beginning on page 4 of the exhibit.

A. Section II, on pages 4 and 5 of the exhibit, shows ten examples of purchases made by the State of New York itself. The State purchases its requirements on open competitive bidding. All prices are quoted on a delivered basis, and these few examples, selected from the records of the Department of Purchase, show that many products produced in the South are being sold to the State of New York directely.

Chairman Aitchison: Off the record.

[fol. 3194] (Discussion outside the record.)

Mr. McCollester: I note, Mr. Chairman, item E on page 4, that shows that the contract was let to a concern in Greensboro, South Carolina, and the next highest bidder was a New York concern, Chadwick, New York.

By Mr. McCollester:

Q. That is correct, isn't it?

A. That is correct, and incidentally, that concern is located only about 100 miles from Albany, capital city and approximately the central part of the State.

Q. These prices which were shown were the prices quoted by the southern concern that secured the contract, which means the next highest prices quoted there are prices delivered in New York, are they?

A. That is right. Section III, beginning on page 6——

By Chairman Aitchison:

Q. May I ask you, with respect to Section II, are they submitted just as typical or is it an inclusive list?

A. They are not an inclusive list. They are typical examples that were selected.

Q. Were there cases where the southern manufacturer was at a considerable disadvantage?

A. None of those were given to me by the Commissioner of Purchase.

Q. Was he asked for them?

A. Well, probably not, Mr. Commissioner.

[fol. 3195] By Mr. McCollester:

Q. Continue, Mr. Russell. You were starting to talk about Section III, beginning on page 6.

A. Section III, beginning on page 6, and extending for about eleven pages, contains 48 examples of competition by southern products with products which are manufactured in New York State. These manufacturers generally sell their product, not only in New York State but throughout the balance of the northeastern section of the country. Of course, many of them sell in other sections also. The statements indicate the nature of the product, the names of some of their competitors and the location of some of their competitors and the territories, generally, where the merchandise is sold.

Q. This information which is compiled was procured by inquiries made by your staff as part of their regular duties, was it?

A. It was made by our staff in connection with Associated Industries, an organization of manufacturers in the State. Many of the facts developed here were developed by personal visit. Some of them were the result of a questionnaire by mail and time did not permit the visiting of all of these industries.

Q. I think it is not necessary to go into detail in connection with Section III. It speaks for itself, does it not?

A. I think it does.

Q. Now, will you take up Section IV, which deals with [fol. 3196] *the furniture industry. Is that a particularly sore spot with the State of New York?*

A. In some sections of the State it is. Section IV deals with the furniture industry primarily in the Jamestown section of the State and primarily with that portion of the furniture industry which produces bedroom furniture, dining room furniture, desks and secretaries and chests of drawers, with what is commonly called case goods. These products are sold throughout the northeastern section of the country through department stores, wholesale, and furniture stores, generally speaking. During the past 20 years, there has been a great reduction in the amount of furniture manufactured in the Jamestown area. The number of concerns has decreased until today only about one-half as many manufacturing concerns are in business in the Jamestown area. There is included——

By Chairman Aitchison:

Q. Is that partly due to consolidations?

A. No, none of those that are listed here were due to consolidations, Mr. Commissioner. Those that remained in existence as a result of consolidations or who changed their names and remained in existence are not included in this list. This list, on page 17, shows the names of 22 furniture manufacturing concerns that actually went out of business.

By Com. Splawn:

Q. In what years did they fail or go out of business?

[fol. 3197] A. Between the year 1922 and date. I haven't the specific years in which they ceased to do business.

Q. Did any one of them go out of business after 1934?

A. I didn't get the question.

Q. Did any one of them go out of business after 1934 or 1935?

A. I don't have the definite dates when they did go out of business.

Q. Wasn't the depression about ten years ago very hard on the furniture business?

A. It was pretty hard on most everybody.

By Mr. McCollester:

Q. Mr. Russell, has the reduction in the furniture production in the Jamestown area coincided with an increase in the furniture production in the South?

A. Generally speaking, yes.

Q. In about the same ratio?

A. In about the same ratio.

Q. Now, did your investigation disclose as to whether or not the furniture produced in the South is of the same character as was formerly made in Jamestown?

A. At the beginning of the competition, I understand that the furniture was not as good quality as that made in Jamestown. But of later years the quality of production in the South has been improved, and today, in many types of wood furniture it apparently compares very favorably, because it is sold in definite competition and in many [fol. 3198] instances has driven the Jamestown furniture out of the market.

Q. Have you on pages 18 and 19 summarized what you found as to the present competitive situation in the case of a few concerns which are still in business in Jamestown?

A. Yes, sir. For example, the Union National Furniture Company, which employs about 165 people in the manufacture of bedroom and dining room furniture, secretaries and bookcases and that sort of thing, sell their product through department stores and retail furniture stores throughout the northeastern part of the United States, to such stores as J. N. Adams and Company and Mendelsohn's, in Buffalo, Macy's and Sloan's in New York. Their principal competitors are the Drexel Furniture Company, Drexel, North Carolina, The Morganton Furniture Company, Morganton, North Carolina, and The Bernhardt Furniture Company, Lenoir, North Carolina. These people, the Union National, formerly manufactured what is known as promotional commercial bedroom and dining room furniture but they have lost most of that business to southern manufacturers and have been compelled to develop new lines of merchandise.

The same is more or less true of the Alliance Furniture Manufacturing Company; the Maddox Table Company, manufacturers of a better grade of furniture, sold in competition with southern manufacturers; and also of the Jamestown Table Company. These were just selected as [fol. 3199] typical examples of what has been happening.

Q. Mr. Russell, are the facts stated in Exhibit 156 true to the best of your knowledge and belief?

A. They are.

Q. And that exhibit was prepared under your supervision and direction, was it?

A. It was.

Q. As part of your duties as Director of the Bureau of Industry?

A. It was.

Mr. McCollester: We offer the exhibit marked No. 156 in evidence, Mr. Chairman.

Chairman Aitchison: Without objection, it is received.

(Exhibit 156, Witness Russell, received in evidence.)

By Mr. McCollester:

Q. Have you anything further you want to state on direct examination, Mr. Russell?

A. Not a thing.

Mr. McCollester: The witness is tendered for cross-examination.

Cross-examination.

By Mr. Norman:

Q. Mr. Russell, did you make any inquiry as to where these furniture factories in New York obtained their lumber or raw material?

A. I did.

[fol. 3200] Q. Where do they get it?

A. Some of it they get locally, some of it is imported from foreign countries and some of it they get from the South.

Q. Do you know about what proportion of it they get locally?

A. No, I do not.

Q. Relatively small, though, isn't it?

A. No, in some instances I don't think it is.

Q. Now, you have listed a great many concerns here that you say have some competition from similar industries in the South located in the South. Is it your idea that there should not be such competition as that?

A. No, sir.

Q. Did you make any effort to ascertain the extent to which commodities produced in the State of New York were sold in the South?

A. In some instances that question came into the discussion, yes, sir.

Q. You haven't made any showing about that, though, have you?

A. No, sir.

Q. Don't you know that the New York manufacturer enjoys a much larger market in the South than the southern manufacturer enjoys in the North?

Mr. McCollester: On that, Mr. Chairman, I might have said, we might have gone into that on direct. We did not [fol. 3201] because this evidence is offered solely to meet the claim of the South that they cannot market in the North.

Whether we can market in the South is an issue that we have not gone into. We are just trying to answer and show that the southern contention is incorrect.

Mr. Norman: That is all.

Chairman Aitchison: Is there anything further with this witness?

Mr. Norman: If you are satisfied with that showing, I am.

Chairman Aitchison: You are excused, Mr. Russell.

(Witness excused.)

Chairman Aitchison: That is all the witnesses we have scheduled for this afternoon. Is there any other witness that wants to be heard this afternoon?

Mr. McCollester: Mr. Mace can go on; he is very short. I think he is scheduled for tomorrow.

Chairman Aitchison: Mr. Mace.

Mr. McCollester: Mr. Mace has one exhibit, a small exhibit of three pages with his name in the upper right hand corner.

GEORGE E. MACE was sworn and testified as follows:

Direct examination.

By Mr. McCollester:

[fol. 3202] Q. Will you state your full name, Mr. Mace.

A. George E. Mace.

Q. What is your present business connection?

A. I am manager of the Traffic Bureau of Commerce and Industry Association of New York, formerly the Merchants Association.

Q. Is it one of the functions of the Commerce and Industry Association to keep itself informed as to the business being done in the State of New York and what goods are being marketed there?

A. It is. The object of the association is to foster the trade and welfare of New York.

Q. Have you made an investigation to ascertain whether or not the manufactured goods of southern manufacture are on sale in the stores in the City of New York?

A. I made such an investigation as to one store only.

Q. Have you embodied the results of that investigation in the exhibit which is marked for identification number——

Chairman Aitchison: 157.

(Exhibit 157, Witness Mace, marked for identification.)

By Mr. McCollester:

Q. 157?

A. I have.

Q. Did you make that investigation personally?

A. It was made by me personally.

Q. And are the facts as shown in the exhibit true and [fol. 3203] correct, to the best of your knowledge?

A. They are.

Mr. McCollester: We offer the exhibit in evidence.

Chairman Aitchison. If there is no objection, it is received.

(Exhibit 157, Witness Mace, received in evidence.)

By Mr. McCollester:

Q. Anything further you want to state, Mr. Mace?

A. Only this much, that the Commerce and Industry Association concurs in the position and testimony that is to be offered on behalf of the State of New York.

Chairman Aitchison: Including the cross-examination? (Laughter)

By Com. Alldredge:

Q. Mr. Mace, I notice that you mentioned a pottery in the South selling its wares in New York. Mr. Wells didn't mention it.

Mr. Bee: One at Camden, Arkansas, and another one at Steeds, North Carolina.

The Witness: Read the question, please, Miss Reporter.

By Com. Alldredge:

Q. Is that correct? Have you got that correct?

A. I didn't hear the question, Commissioner. I was asking the stenographer to read it.

Com. Alldredge: On page 2.

[fol. 3204] (Previous question read.)

The Witness: That is correct, in that particular instance. I am not able to testify that the goods were actually shipped from the manufacturing plant. In that instance the goods may have been shipped from a warehouse at the point named on my exhibit, but that was the originating point of those particular articles of pottery.

By Com. Alldredge:

Q. Do you know whether these goods move on class rates or not?

A. I do not.

Cross-examination:

By Mr. Bee:

Q. Mr. Mace, would your answer be the same as to shipment from the Camach Pottery Company at Camden, Arkansas, that not being shown as a pottery on page 2 of Mr. Wells' Exhibit 155?

A. The answer would be the same. I didn't make any attempt to have my exhibit conform to any one else's.

Q. Then you don't know whether these commodities were manufactured in the South or Southwest or whether they were manufactured some other place?

A. Oh the pottery items, that is correct. But I do know they were shipped from the points that were specified on my exhibit.

Q. Do your know whether the other items shown coming from Texas, as an example, were manufactured at the [fol. 3205] Texas points or were shipped from the Texas points, or how they happened to get to Texas? I call your attention to a shipment from Sallie Newton of some books at Houston, Texas. Do you know whether there is a manufacturer at Houston or whether they came by water from New York and were sent back up to you to be sold at a retail establishment?

A. I examined one of the books and it bore the name and information that it was published by Sallie Newton, Houston, Texas.

Q. And that is the name of the press that published it?

A. I don't know what it is the name of. It said "Published by Sallie Newton".

Q. It could have been printed in New York and published by Sallie Newton at Houston, could it not?

A. I don't know.

Chairman Aitchison: Mr. Bee, I call your attention to the fact that Mr. Wells' exhibit, page 2, evidently refers to the potteries which are members of the United States Potters Association. Unless Camden was——

Mr. Bee: Page 1 does, but page 2 says definitely the star is the location of pottery manufacturing plants.

Chairman Aitchison: No, it doesn't.

Mr. Bee: Well, it does on my copy.

Chairman Aitchison: It says "Location of Pottery Manufacturing Plants," but you have got to tie that up with the preceding ones, because the stars are identical. [fol. 3206] Off the record.

(Discussion outside the record.)

Mr. Bee: I thought that the witness intended this to be the location of the plants, regardless of the membership.

Chairman Aitchison: Proceed.

By Mr. Norman:

Q. Mr. Mace, do you mind saying what department store this is.

A. R. H. Macy & Company.

Q. Now, they sell articles that are received from literally all over the world, don't they?

A. I don't know.

Q. Wouldn't it be most amazing if R. H. Macy & Company didn't receive a lot of articles from the South for sale?

Chairman Aitchison: It probably would during the time he made this check, wouldn't it?

The Witness: This check was made November 4 of this year.

Chairman Aitchison: You couldn't expect to get very many goods from a great many parts of the world this year.

Mr. Norman: No, I guess that is true, outside of the Americas, at any rate.

By Mr. Norman:

Q. But it is true, is it not, that that is one of the largest department stores in the world and that it does sell a great list of commodities received from a great many different sources of supply?

[fol. 3207] A. Well, I can only say this, that the description I gave it is what I conceive it to be, a leading department store in New York.

Q. Well, is it one of the largest in the world? I have always understood it was.

A. I wouldn't have knowledge of that.

Mr. Norman: All right, that is all.

Chairman Aitchison: Is there anything further with this witness? (No response.) The witness is excused.

(Witness excused.)

Chairman Aitchison: Are you ready to pursue the cross-examination of Dr. Edwards now?

Mr. Eshelman: Speaking for myself, do I understand, then that it will be limited to what was put in at Indianapolis? I can cover that.

Mr. McCollester: I have one witness that will take five minutes.

Chairman Aitchison: You may proceed.

Mr. McCollester: Mr. Williams isn't strictly a witness for the State of New York. He is one of the group. I think he might proceed under his own steam.

Samuel H. Williams was sworn and testified as follows:

Direct examination.

The Witness: My name is Samuel H. Williams. I am [fol. 3208] Director of the Transportation and Foreign Trade Bureau of the Chamber of Commerce and Board of Trade of Philadelphia. I am a member of the Trunk Line Commercial and Industrial Committee, which was formed in connection with this proceeding, to which reference was made by Mr. McCollester, counsel for the State of New York.

The organization which I represent concurs in the testimony which will be presented through witnesses called by Mr. McCollester, in so far as the testimony relates to the general territory.

I will not deal with rates, but merely wish to present a study which I have made. In order to determine whether manufactured articles of the South were regularly marketed in Philadelphia, I made an inquiry of four retail stores in Philadelphia. An exhibit which I have to offer gives the result of this study, and I present this exhibit and offer it as Exhibit No.——

Chairman Aitchison: 158.

(Exhibit 158, Witness Williams, marked for identification.)

The Witness: 158.

Chairman Aitchison: If there is no objection, Exhibit 158 will be received.

(Exhibit 158, Witness Williams, received in evidence.)

Chairman Aitchison: Is that all?

[fol. 3209] The Witness: That is all I have.

Chairman Aitchison: Cross examine.

By Com. Alldredge:

Q. Wouldn't these commodities move on class rates?

A. I do not know, Mr. Commissioner. I didn't go into that.

Q. Do you know anything about the quantity in which they are sold?

A. At my request, I asked for the names of articles and the points of origin that moved regularly from the various points.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: You are excused.

(Witness excused.)

Chairman Aitchison: Take the stand, Dr. Edwards.

FORD K. EDWARDS, recalled:

Cross-examination.

By Mr. Eshelman:

Q. Dr. Edwards, at page 63 of your Exhibit 11, apparently in support of your study in this case, reference was made to a study of your Bureau in Docket 27766, the Alden Coal case. Has that case as yet been decided by the Commission?

A. No, sir.

Q. Then so far as Commission approval is concerned, do you claim any greater sanction for the results of the study [fol. 3210] in the Alden case than for your study introduced here?

A. No, sir.

Q. Was the Bureau's study in the Alden case a new, complete and independent study by the Bureau?

A. No, sir.

Q. Was the Bureau's study in the Alden case the subject of severe criticism by the carriers on the grounds that the costs did not properly portray the facts or the costs of the services involved?

A. It probably was. I didn't follow all the criticisms of the carriers. There certainly were criticisms.

Q. Can you say whether the Bureau costs in the Alden case included anything for deficiencies in such other services as those pertaining to the raw coal traffic, the passenger traffic or less carload traffic?

A. Those deficiencies were set up for separate consideration. They were not included in the cost.

Q. Did the Bureau costs cover all the anthracite lines to tidewater?

A. No, sir.

Q. Did they cover the costs of all collieries on each of the five lines which were treated?

A. No, sir.

Q. Did they cover any joint-line costs?

A. No, sir.

[fol. 3211] Q. Were they based on spring or summer operations which disregarded winter conditions?

A. I am not certain as to that, Mr. Eshelman.

Q. Did the Bureau figures for return omit an investment of $27,000,000 for electrification of the Pennsylvania Railroad between Enola Yard and South Amboy?

A. Yes, sir.

Mr. Eshelman: I think that is all I have on direct.

Chairman Aitchison: You mean on cross?

Mr. Eshelman: Cross.

Chairman Aitchison: Mr. Reed.

Mr. Eshelman: Thank you very much, Doctor.

By Mr. Reed:

Q. Doctor, in preparation of this cross examination, we submitted to you some figures so that we could save time. Have you had opportunity to check those?

A. Yes, sir.

Q. It is a fact, is it not, that Exhibits 2, 3 and 4 were compiled on what you have termed a "relative use basis," in which you have used the car miles, car days, gross ton miles, cars handled and less than carload consignments as the factors establishing the relative use of the carriers' facilities as between the varying loads, the varying types of equipment and as between less than carload and carload traffic, is that correct?

A. Yes, sir.

[fol. 3212] Q. The relative use basis as described in your exhibits and testimony, does, in fact, recognize the ability of high-class traffic, such as less than carload traffic, to pay for the use which such traffic makes of the carriers' facilities, isn't that correct?

A. No, I don't think that is correct.

Q. Do you have Exhibit 3 before you?

A. Yes, sir.

Q. And Exhibit 12?

A. Yes, sir.

Q. What, then, is meant by the last sentence of Exhibit 12, Chapter 1, in introductory statement, the last two sentences beginning with: "This has the effect of spreading the constant expense over the revenue-producing units of traffic, ignoring differences of ability to pay," and the other sentence there to the same effect.

A. That sentence means that, in so far as the constant expenses are concerned, we have distributed them pro rata over all revenue units of traffic, tons and ton miles, regard-

ing one ton as no different from any other ton, and thereby not giving any recognition to ability to pay.

Q. Is it your statement, now, that the relative use basis as applied to carload and less than carload traffic would not, in fact, reflect the ability to pay?

A. Yes, sir, for the reason that a cost study cannot reflect [fol. 3213] differences in ability to pay.

Q. Is there any difference between Exhibits 2 and 12 in that the cost as presented would ignore the ability to pay of less than carload versus carload traffic?

A. In both exhibits the costs ignore ability to pay. However, in Exhibit 2, or under the methods outlined in Exhibit 2, we did get a higher cost on L.C.L. traffic, for the reason that I have explained in Exhibit 12. In other words, a pro rata distribution of the constant cost will throw more of those constant costs against that traffic which has a high out of pocket cost, and less carload traffic is in that category.

Q. Now, in so far as less than carload deficits are concerned, the real difference between Exhibit 2 and Exhibit 12 is that the less than carload deficit, for the nation as a whole, has been reduced from $135,000,000, in round figures, to about seventy million or sixty-six million, in round figures, isn't that correct?

Chairman Aitchison: That is in Exhibit 12?

Mr. Reed: Exhibits 2 and——

Chairman Aitchison: Which one carries the reduction?

Mr. Reed: The real difference between them is the reduction. Exhibit 12 reduces the deficit as developed in Exhibit 2 by $69,000,000.

By Mr. Reed:

Q. Isn't that substantially correct?

[fol. 3214] A. Well, I haven't checked that figure. It certainly has reduced the amount of the deficit.

Q. Well, isn't that the principal difference in the construction of the two exhibits?

A. Well, I would say that was an important by-product. It isn't the principal difference.

Q. Now, Exhibit 12 and 13 modify the relative use basis only as to the constant factors, isn't that a fact?

A. Exhibit 12 and 13 take into consideration a portion of the return on the value of the property as an out-of-

pocket cost and thereby apply the use basis to that element. Indirectly, one might say that the first study, in that it surcharged all the constant expenses on the basis of the direct expenses, and inasmuch as the direct expenses were apportioned on a use basis, the result would be that all expenses were ultimately apportioned on the use basis. That would be the effect of it.

Q. The sum total would have been that the main factor, in so far as less than carload traffic is concerned, that would be modified and was modified by your Exhibits 12 and 13, were the constant factors?

A. Yes, sir.

Q. The new basis, in so far as it modifies the prior exhibits, results in the greatest modification being made in the cost of handling the less than carload traffic, isn't that a fact?

[fol. 3215] A. No, the greatest modification is on carload traffic of a very light load, such as five tons. There was a lesser modification on L.C.L. for the reason that a great portion of the terminal expenses was left unchanged. In other words, percentage-wise, there was a greater modification on the five-ton carload shipment than on the five-ton L.C.L. shipment.

Q. Taking the carload traffic as a whole, Doctor, and the less than carload traffic as a whole, percentage-wise, the greatest modification was made in connection with your less than carload cost, isn't that a fact?

A. Well, yes, that would be true for the reason that on carload traffic, the effect is largely compensating. What you adjust on a light-weight car you compensate for on a heavy-weight car, and to quite a substantial degree you come back to the same aggregate.

Q. And it follows that the elimination of approximately $70,000,000 in the less than carload deficit has thereby been spread over your carload traffic, isn't that true?

A. That is true in the treatment of the full distributed carload expenses.

Q. It is a fact, is it not, that Account No. 411 of the Railway Accounting System covers what is defined as "other expenses", and it is further a fact, is it not, that such account would include the pickup and delivery costs incurred by the railroads where the rail carrier performed the serv-[fol. 3216] ice in its own vehicle?

A. Yes, sir.

Q. It is a fact, is it not, that Account 411 was apportioned on the basis of the other accounts, most of which were apportioned directly in the formula which you used for allocating or apportioning railway expenses?

A. Yes, sir.

Q. This method of allocation or apportionment would have the effect of allocating the majority of Account 411 to carload traffic, would it not?

A. Yes, sir.

Q. Assuming that in the handling of less than carload traffic, rail carriers make allowance to shippers for the performance of pickup and delivery service of five cents per hundredweight for pickup and five cents per hundredweight for delivery; what consideration was given to this cost in preparing your out-of-pocket cost as set up in Exhibits 12 and 13?

A. It is included in the pickup and delivery costs shown in Exhibit 13, Table 5, page 1, line 18, column 5.

Q. I didn't hear you, Doctor.

Chairman Aitchison: Read it, please.

(Answer read.)

By Mr. Reed:

Q. But they were not, either of those items were not calculated in your out-of-pocket cost of handling less than carload freight, isn't that true?

[fol. 3217] A. That is true. It is included in the pickup and delivery cost shown for L.C.L., but pickup and delivery costs, as such, were not included in our rail cost scales for L.C.L.

Q. Are all of the allowances to shippers included in that pickup and delivery cost? Just what I had in mind, Doctor, isn't it true that some of them were deducted from gross in the reporting to the Commission?

A. Yes, some of them were deducted from gross. However, if they did deduct it from gross, the amount should nevertheless be still shown in the source material from which we developed our pickup costs.

Q. Are you certain at this time as to whether or not the development of your pickup and delivery cost included those items of allowance to shippers where they were deducted from gross?

A. Will you repeat that question please?

Chairman Aitchison: Read the question.

(Question read.)

The Witness: I may have to look at that item again. It is a question of the carriers—some of the carriers not following the Commission's instructions. Probably a fifth of them don't, and it is a question of whether, in reporting that item, in making their reductions from gross, whether they likewise report that as cost of pickup and delivery.

By Mr. Reed:

Q. Well, then, may we have this understanding, the next [fol. 3218] question here was to ask you for the figures where the shippers' allowances were deducted from gross. May we just ask you to check that and put the figures in?

A. Will you identify your question, Mr. Reed, please?

Q. I had to digress a little bit on it, Doctor, while you are answering. No. 10 is the next question: Do you have any figures and will you supply such figures showing the amount paid by the railroads to the shippers as allowances for the performance of pickup and delivery service in the handling of less than carload traffic? That is the allowances to shippers.

A. Well, in checking our statistics, I find that of the total pickup and delivery cost for 1939 of $24,662,162, the amounts paid to shippers and consignees was $6,754,445. That figure was taken from Statistics of Railways for 1939, Table 81.

Q. Now, you have previously said, in answer to my former question, that if they were deducted from gross you were not certain whether they would be included in that amount.

A. I believe they would be included in this amount.

Q. Will you check that?

A. Yes.

Q. Please explain how the allowances to shippers for the performance of pickup and delivery services are handled in the railway accounting reports. I would like to have that in the record, if you will, at this point; how they handle the [fol. 3219] reports concerning the payments to shippers for pickup and delivery.

A. Well, Schedule 541 of the Annual Report provides that the carriers report the gross freight revenues without adjustment for absorption or costs, but a note appearing in

Statistics of Railways, 1939, Table 51, indicates that about one-fifth of the railways deduct them from the gross receipts.

Q. Thank you. It is a fact, is it not, that in those instances where the revenues from less than carload traffic are reported on a gross basis without deducting allowances to shippers for the performance of pickup and delivery service, that such basis would result in an understatement of the rail carriers' less than carload deficits in your exhibit?

A. My answer to that is no; that the collection and delivery service payments to others, including shippers, were added to the expenses before deducting the gross revenues in determining the deficit.

Q. If I calculate the thing correctly, and I am not going to pursue that much further, in arriving at your deficit for handling less than carload freight you have not incorporated in your cost figures the pickup and deliveries that were paid to shippers. I may be wrong about that, but I would like to know, to be sure. In other words, if it was deducted——

By Chairman Aitchison:

Q. Do you understand it, Doctor, the point?

[fol. 3220] A. I think I do, Mr. Chairman.

By Mr. Reed:

Q. If it were deducted from gross and not carried into your expense item, then your net deficit would be understated, would it not, if that be a fact?

A. No, sir, I think it would be the reverse. If the carrier reports the net, and in computing our deficit we take credit only for the net amounts from L.C.L. after those deductions, and then, in turning to our further costs for pickup and delivery, we again pick up the same amount which has been deducted from their revenue, then as to those carriers we have it in twice.

Q. Well, you have understated the deficit in that case, isn't that correct?

A. No, sir, I think we have overstated it. If we include that cost for pickup and delivery in our L.C.L. cost to deduct from revenue, then our figure, revenue figure should be the gross figure; but as to some carriers it was a net figure, so therefore that cost was deducted from gross and included in the cost and again deducted from revenues. It was a

point, in fact, which we hadn't realized until we were going over these questions, just before I left Washington, and our conclusion was that it would have the effect of overstating our deficit rather than understating it.

Q. Now, would that be true if they had deducted them from gross and the payments to shippers were not included [fol. 3221] in your expense of handling less than carload traffic?

A. If that were true, then our figures would be right as they stood. They would be neither overstated nor understated.

Q. You would not have the cost of performing the service in the cost and you would not have it in the gross revenue in that event. You think your deficit would be correctly stated?

By Mr. Smelker:

Q. Do you understand his statement?

A. Well, I thought I did when you started the question.

By Mr. Reed:

Q. I say, in the event that the payments to shippers were deducted from gross and you did not carry them forward in your expense—

A. The answer is yes.

Q. Then it would be an understatement in that event, wouldn't it?

A. No, the answer is yes, we would have neither an understatement nor an overstatement.

Q. Your figures would be correct in that event?

A. The figures would be correct.

Q. And if they were deducted from gross and the expense were carried in the pickup and delivery expense, you say it would be an understatement of the deficit?

A. No, sir, it would be an overstatement.

Q. An overstatement of the deficit?

A. Yes, sir.

Q. In arriving at your out-of-pocket cost for performing [fol. 3222] less than carload service by rail carriers, it is a fact that neither Exhibit No. 2, 3, nor Exhibits 12 and 13 have given any consideration to any of the items we have just discussed as out-of-pocket cost, isn't that correct?

A. Yes. Any showing we have made of cost scales for L.C.L does not include pickup and delivery.

Q. In the out-of-pocket cost scale factors which you have presented for the handling of less than carload traffic, have you included the actual cost of loss and damage payments?

A. No, sir.

Q. Have you included such costs in your fully allocated cost figures for the handling of less than carload traffic?

A. No, sir.

Q. The costs which you have described as "constant" are divided as between those constant costs which are solely related to a particular service and such costs which are common to all services, is that not a fact?

A. Yes, sir.

Q. Constant costs solely related to a particular service, for instance, would include such related cost as less than carload platform constant cost and common constant costs would be illustrated by a general office expense and the constant portion of maintenance of right of way, is that not a fact?

A. Yes, sir.

Q. Have you included in your out-of-pocket cost for less [fol. 3223] than carload traffic any amount to cover return on the constant portion of road value?

Q. Is it or is it not a fact that the road value includes everything except equipment and that, therefore, it includes less than carload platform and less than carload station facilities?

A. Yes, sir.

Q. In arriving at the out-of-pocket cost of handling all less than carload traffic, would it be proper to exclude from such out-of-pocket cost all return on all less than carload platforms and all less than carload station facilities?

A. No, sir.

Q. Please refer to table 5 of Exhibit 13, line 16, page 1 of 12, and explain why no figures were shown in the constant cost solely related to less than carload traffic to recover return on road value?

A. The item of expense there omitted consists of a return on the value of railroad terminal property assignable wholly to L.C.L. services, such as the warehouse, L.C.L. warehouse buildings, platform and the land upon which those structures rest. In a broad study of this character, the data for making any such apportionment was not available.

Q. That was the reason for its omission?

A. Yes, sir.

[fol. 3224] Q. Is it or is it not a fact that all common constant costs have been allocated to carload traffic under your new basis?

A. Yes, sir.

Q. It is a fact, is it not, that if the entire less carload traffic of the rail carriers were eliminated, the constant return on less carload platforms and other less carload facilities, included in the item of road value, would be eliminated also?

A. Well, a substantial part of it would.

Q. Have you, in fact, under your new basis allocated entirely to carload traffic all such less carload constant return?

A. Yes, sir, that is the item I just described.

Q. In other words, you have assessed no constant return against less carload traffic, not because you felt that there was no such return properly chargeable against less carload traffic but because of the difficulty of ascertaining the proper amount so chargeable?

A. Yes, sir.

Q. Is it not true that in the case of the constant cost which you have considered as solely related to less carload traffic, the greater part of such costs were independent of distance and that you have included only a negligible amount of constant cost variable with distance?

A. Yes, sir.

Q. Is it or is it not a fact that the bases of allocation of [fol. 3225] constant cost used in your new study ignore the relative use made of carriers' equipment and facilities in the handling of less than carload traffic as compared with carload traffic?

A. This is true as to those constant expenses which are common to all traffic.

By Chairman Aitchison:

Q. Well, wouldn't it also be true that you have ignored the portion of the use of the carriers' facilities which is made for carload traffic equally with less than carload, used exclusively for carload traffic?

The Witness: Will you read that question?

(Question read.)

By Chairman Aitchison:

Q. You haven't allocated that directly to carload, have you? For instance, the land upon which a team track is situated?

A. That has been assigned directly to carload. That has been treated as common. We felt in the terminal that we could not do it and it was treated as a common constant cost. That is the return on that value.

Q. And that has been apportioned?

A. That has been apportioned. Well, it hasn't been apportioned; it has been laid directly against carload. I would say all of that expense on the return of the value of terminal property has been charged to carload. We have treated it as a common constant cost and did not have a basis for [fol. 3226] apportioning it, and we have charged it to carload.

Q. Are you familiar with the British system of rate statement?

A. I can't recall it now.

Q. Where they have the three elements of linehaul, station and station terminal?

A. Yes, sir.

Q. Isn't Mr. Reed's line of questioning sugggesting that an apportionment should be made between those three elements?

Mr. Reed: I didn't suggest that, Mr. Chairman.

The Witness: We have made a separation. We are talking about cost and I think the British system has a way of dividing their costs.

Chairman Aitchison: That is what I am talking about. They state their rates separately and they are supposed to have some relation, by and large, to the cost of performing the service.

Mr. Reed: You may allocate the cost, Mr. Commissioner, and in order to arrive at the proper burden that should be borne by one class of traffic as compared with another, without separating your rate as between terminal and linehaul; we hope, anyway.

Chairman Aitchison: They go further than that. Shouldn't you have a customer cost of doing business with the customer?

Mr. Reed: My question——

Chairman Aitchison: I am answering him. If we are [fol. 3227] going into these refinements, shouldn't you have a customer cost also for doing business with the customer, such as making out a waybill and such as that?

The Witness: We have that in there, Mr. Commissioner. This cross-examination has only been going to the return on the value of terminal property, and when we came to the terminal property exclusively used for L.C.L. service—and that is the only item to which Mr. Reed is here referring—we found that was limited to certain tracks and the station platform and the station building.

Now, the station, the office portion of the station is used jointly for carload and less carload, because billing operations and the clerical operations are performed by both. The warehouse portion is exclusively or primarily, certainly, L.C.L., but that—I had no basis for even attempting a separation of the valuation of the station accounts between carload and less carload. As to the operating expenses, however, and maintenance, we have carried those separations all through as between carload and less carload, using weighting factors where necessary for distributing the station clerical expenses between carload and less carload.

By Chairman Aitchison:

Q. You have distributed that on a weight basis, haven't you?

A. A weighting basis, yes, sir.

Q. Instead of a transaction basis. I am asking you [fol. 3228] whether or not, if we are going into utmost refinement on this, we don't have to split it off a little bit further.

A. We have used the transaction basis. We have distributed the clerical expenses on the basis of the carload versus the less carload consignments or bills handled.

Q. You haven't got my idea yet. My question is, isn't there a certain amount, if we are going into extreme refinements, which has to be charged against a customer, whether he puts ten carloads on one waybill or one or whether he has 100 pounds of fourth class instead of the carload? It takes just as much clerical labor to treat the one as it does the other?

A. Well, the case may hold as to certain portions of it, of the expense, but we made a number of time studies of the relative time per transaction or per bill, and we find it has

taken from three to five times as much station clerical work to handle carload as it does to handle less carload, and a large part of that difference does not come from the actual billing operation, which may consume only 25 per cent of the station agent's time. A good many of the railroads maintain outside men who sign bills of lading and seal carloads for carload work. They are required also, they may charge off or do charge off part of their clerical staff, or at least I would say the work is required of making yard checks, which are not required for L.C.L. or which can be made very quickly from the tracks, based on a quick inspection of the [fol. 3229] L.C.L. tracks; so that when we build up the time chargeable to carload work and the time chargeable to L.C.L. work and divide each by the number of consignments, we invariably have come out with more time charged to a carload transaction or bill than we do to an L.C.L.

Q. That simply might mean, then, that the customer charge should be greater for a carload than for an L. C. L.?

A. Yes, sir.

Q. But it doesn't get at the point, if we are going to have an extreme refinement, we should charge the man for the privilege of consenting to do business with him before we charge him for the service.

By Mr. Reed:

Q. Doctor, you and I have been discussing the distribution of solely related constant factors and the common constant factors. It has nothing to do with the direct physical expense, is that correct?

A. Yes, sir.

By Chairman Aitchison:

Q. The customer cost is common enough in utility schedules, isn't it?

A. I didn't get the question.

Q. The customer's cost is a common enough factor in utility schedules, is it not?

A. Yes, sir.

By Mr. Reed:

Q. The last question there, No. 30, Doctor: Were you able to get those figures so you could read them in the record [fol. 3230] for me? Do you have them?

A. Yes, sir.

Q. For the year used in your cost study, please state from your basic figures the following facts: (a) less than carload car miles; (b) carload car miles; (c) less than carload gross ton miles; and (d) carload gross ton miles.

A. (a) I have 2,030,743,729; (b) 18,358,325,588; (c) 55,237,473,090; and (d) 762,437,941,084.

Mr. Reed: Thank you very much, Doctor.

Chairman Aitchison: Anything further?

Mr. Eshelman: Mr. Chairman, I am chagrined to find I neglected to ask the Doctor one question I failed to ask, to get clarification.

By Mr. Eshelman:

Q. Doctor, the table at page 59 of Exhibit 11 carries the caption "Weight of Trains Reported by Carriers in Docket 27766," etc.; but Footnote 1, which refers to certain designated items, shows that the figures for assembly service on the Lackawanna and Lehigh Valley were taken from the exhibits of complainants. Can you say whether such figures of complainants were based upon their estimates or upon carrier records of actual performance?

A. Will you give me the page number again?

Q. That is page 29, is the caption, and the footnote is on 61, I believe. The caption say- "Weight of Trains Reported by Carriers," and on that same page you will find some Lackawanna and Lehigh Valley items with a footnote 1, and the footnote appears on page 59. My question is, the [fol. 3231] footnote read, "Figure for assembly service on D. L. & W. R. R. and L. V. R. R., taken from exhibits of complainants, where this service was treated as roadhaul service. In defendants' exhibits this service was treated as yard switching." Can you say from that whether the figures of complainants were based upon their estimates or upon carrier records of actual performance, from your knowledge of the Commission's accounting requirements and the carrier practice under it?

What I have in mind is this, if the defendants showed that as terminal, must they not have necessarily come from figures which were reported as terminal under the Commission's regulations?

A. Yes, sir.

Q. And therefore if the complainant showed it in a different fashion, they couldn't have based that on carriers' records, could they?

A. That is right.

Q. And therefore it must have been their own estimates?

A. Yes, I believe that would follow. I can't recollect the specific detail. That was handled by Mr. MacLean of our staff.

Mr. Eshelman: Thank you, sir.

Mr. Norman: Mr. Chairman, I would like to ask two questions.

[fols. 3232-3233] Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: Does anyone else desire to cross-examine Dr. Edwards now? Then we will let you call him some other time. Is there anything further with Dr. Edwards? You are excused.

(Witness excused.)

Chairman Aitchison: That seems to be about all we can do. We have virtually run out of witnesses. We will recess at this time until 9 o'clock Monday morning next.

(At 5:55 o'clock P. M. November 20, 1942, adjourned to 9:30 o'clock A. M. November 23, 1942.)

[fol. 3234]

Hotel Deshler,
Columbus, Ohio.
November 23, 1942.

Met, pursuant to adjournment, at 9:00 a. m.

Before Division-2 of the Commission

Hon. Clyde B. Aitchison, Chairman of the Commission,
Hon. Walter M. W. Splawn, presiding Commissioner,
Hon. J. Haden Alldredge, Commissioner,
And a Cooperating Committee of the National Association of Railway & Utilities Commissioners represented by: Mr. John J. Murphy, South Dakota Utilities Commission; Mr. George McConnaughy, Public Utilities Commission of Ohio; and Mr. W. H. Scott, South Carolina Public Service Commission.

Present: Paul O. Carter, Examiner; W. J. Koebel, Examiner; T. Leo Haden, Examiner.

Appearances: As heretofore noted.

[fol. 3235] Proceedings

Chairman Aitchison: Shall we resume.

Mr. Smelker: Dr. Edwards.

FORD K. EDWARDS recalled.

Mr. McCollester: If the Commission please.

Chairman Aitchison: Mr. McCollester.

Mr. McCollester: Is Dr. Edwards available for cross-examination?

Chairman Aitchison: He is, and is sitting right on the witness stand.

Mr. McCollester: Oh, I beg your pardon, your Honor. I looked right at him and did not see him.

Cross-examination (continued).

By Mr. McCollester:

Q. Dr. Edwards, would you be good enough to turn to table 3 of your Exhibit No. 2.

A. Yes, sir.

Q. Or rather—pardon me—I should have said, table 2 of your Exhibit No. 2.

A. Table 2, Exhibit 2?

Q. Yes.

A. Yes, sir.

Q. In order that we may be sure that we understand the conclusion to be drawn from the figures which are there shown, and from similar figures in the other table, I would [fol. 3236] like to ask you this question: assuming the correctness of your computations, and the method employed, is it the correct conclusion to be drawn from table 2 that if, looking for example at line 2, the average revenue per ton of all railroads in Eastern territory, excluding New England and Northern Illinois, from freight handled by them in box cars for an average distance of 300 miles and an average loading of 24.6 tons, is 11.8 cents per hundred pounds, then the railroads have earned their costs on the basis of cost level No. 2?

Mr. Smelker: Do you understand the question, Dr. Edwards?

The Witness: Yes.

Mr. Smelker: The question is quite involved. Would you like to have it read back?

The Witness: No.

Mr. Smelker: Very well.

A. That is true, Mr. McCollester, based on our first cost study put in.

By Mr. McCollester:

Q. Now, if it should so happen, Dr. Edwards, that of freight having that average haul and that average loading per car in Eastern territory, some freight should produce revenue less than 11.8 cents per hundred pounds and other freight should produce revenue in excess of 11.8 cents per hundred pounds, the railroads would earn their costs, under cost level No. 2, if the average came out to be 11.8 cents per hundred pounds; is that correct?

[fol. 3237] A. Yes.

Q. Therefore, would you not agree, Doctor, that if it should appear that the average costs so computed for that length of haul and that loading in one section of the country were the same as in another, and that some freight in one territory yielded lower revenue than in another territory, while other freight yielded a higher revenue, the fact that the costs were equal would not indicate that all of the rates would have to be equalized, on all classes of traffic, in order to yield cost, would it?

A. That is right. There might be a different distribution of the transportation burden, as between different commodities in different territories.

Q. And that is in effect what you mean, is it not, when you say, in a somewhat different connection, I believe on page 3 of your Exhibit No. 2, that if some service pays less, other service must pay more?

A. Yes.

Q. Now, Doctor, I want to ask you just one or two further questions, by way of explanation of your method. Will you take your Exhibit No. 3, please, and turn to table No. 87 of that exhibit.

A. Yes.

Q. Is my understanding correct, now, that the figures for revenue gross ton miles which are used as the divisor in [fol. 3238] Group—3 of Table 87, and the figures for revenue car miles in Group—2, are figures which were reported to you by the railroads, and which have been used, without any adjustment, except that they were totaled for each group of carriers.

A. Yes, sir, that is correct,—except that it excludes the nonrevenue units.

Q. Yes, but you simply took with that exclusion, the reported revenue gross ton mile figures and the revenue car mile figures, and used them as the divisors in each of those instances, did you not?

A. Yes.

Q. Now, Doctor, following through from Table 87 to Table 89,—or rather, Table 88, I should say, which you show in Exhibit No. 2—or rather, pardon me—Exhibit No. 3, simply as illustrative of the method by which you worked out your cost scale: I notice that in Table 88, and also in the explanation thereof contained at pages 57 and 58 of your Exhibit No. 2, you refer to the fact that you have weighted for each territory the tare weights of cars and the ratio of empty to loaded mileage, in arriving at the tare weights and the ratio of empty to loaded haul which you have used.

A. Yes.

Q. Would you explain how you did that weighting? For example, just to aid you if I may, Doctor, you might turn to pages 57 and 58 of your Exhibit No. 2, where you say, "The [fol. 3239] tare weights by classes of equipment were taken from replies to a questionnaire issued to the carriers. The territorial average for each type of equipment was obtained by weighting the figure produced by each railroad with the total number of carloads which the reporting railroad hauled of the traffic customarily handled in each type of equipment." Now, will you tell us, please, how you did that weighting? Just what was the weighting process?

Chairman Aitchison: Well, now, give the witness a chance to answer one question before you begin another one.

Mr. McCollester: Yes, Mr. Chairman, that is just what I am doing. I was merely trying to help him find what I was talking about.

A. The weight, the tare weight that was reported by each carrier, was weighted by the traffic hauled in each type

of equipment. Now, I presume that your question goes to whether we weighted it with the traffic carried by classes of equipment, or the traffic forwarded by classes of equipment.

By Mr. McCollester:

Q. Well, Doctor, my question is leading up to this point: where, at what stage in your computations, did there enter in the exercise of your own individual judgment as to the character of equipment used for the handling of any particular kind of traffic? Did that enter in at this particular stage, [fol. 3240] in connection with this weighting process?

A. The class of cars, or the type of cars in which the traffic was handled, entered into the weighting process, yes, sir. In other words, we necessarily had to have some estimate—or, in order to derive the number of carloads forwarded in each type of equipment, we had to assign each commodity to that type of equipment in which we believed it would customarily move. Does that answer your question?

Q. Well, was that process employed in working out your mileage scales, of which the computation in Table 88 is typical?

A. No, sir. That assignment of commodities to classes of equipment was used in order to obtain a weighted average of the tare weights and per cent empty return, for a territory. In other words, if a group of railroads reported a tare weight for box cars of 20 tons, 20.5 tons, 21 tons, 19.8 tons, or 21.6 tons, we weighted all of those figures in order to get the territorial average, using as the weighting factor the carloads forwarded.

Q. Well, now, Doctor, that is the point where, in your computations, I really am not able to follow you. Did not the railroads report to you by individual railroads, their average empty mileages in connection with each class of equipment,—as to box cars, such-and-such a ratio of empty to loaded mileage, as to gondola cars, such-and-such a ratio of empty to loaded mileage, and so forth?

[fol. 3241] A. Yes.

Q. Well, having those average figures for each railroad, why did you vary those figures by a weighting process, instead of using those averages, simply combining them on a group basis in accordance with the grouping of the carriers?

A. Well, in order to develop the cost, let us say, for Eastern territory, based upon the average tare weight or the average per cent empty return, we had to have an average figure for the territory. The carriers reported to us their per cent empty return, but they did not report their empty and loaded miles by types of equipment. If we had had the empty car miles to the loaded car miles by types of equipment, we could have used those figures directly.

Q. Well, then, you had no original figures, as to empty to loaded car miles, separated by different types of equipment; is that correct?

A. That is right, yes, sir. The carriers do not currently accrue that information. However, the great majority of the carriers had previous past studies that they had made to determine the ratio of empty to loaded car miles by classes of equipment, and in those cases, they furnished us with those ratios.

Q. Well, then, they did furnish you with the ratio of empty to loaded car miles by classes of equipment, to the extent that they had the information available, in each terri- [fol. 3242] tory, did they not?

A. That is right.

Q. Well, then, why did you not use that——

Chairman Aitchison: Well, now, just a moment. You spoke of a majority of the carriers. How about the rest of them?

The Witness: Well, it was not complete; no, sir; every railroad did not have the information. We could not use that, however, as we still did not have the loaded car miles by classes of equipment. All that we had was the grand total car miles for every class of equipment, box cars, refrigerator cars, gondola cars, flat cars, all together, in the aggregate.

By Mr. McCollester:

Q. Well, having that figure, Dr. Edwards, of the ratio of empty to loaded car miles for all classes of equipment, then how did you proceed to compute what the ratio of empty to loaded car miles was for gondola cars, for example?

A. The carriers furnished us with their ratio of empty to loaded car miles for gondola cars—furnished us with the ratio, that is, based on past test studies, those carriers that

had made past test studies. Now, in developing our unit cost, we did not have need for the cost by individual classes of equipment; but when we ran our cost scale for gondola and hopper cars, for various lengths of haul, we simply assumed every mileage, starting at 10 miles, and running [fol. 3243] through 20 miles, 30 miles, 40 miles, 50 miles, 60 miles, and so forth. Now, referring to the loaded mileage, that loaded mileage must be accompanied by an allowance for empty return, and if the empty return was, say, 90 per cent, then we charged off the 100-mile loaded haul with the cost for a 90 per cent empty return.

Q. Well, I can understand, Doctor, that when you came to arrive at the average expense, or cost for all traffic handled in different types of equipment in the territories, each territory, you then accumulated the total amount handled and assigned it to classes of equipment, and on that basis arrived at your estimated cost for the territory as a whole. But my question, which I have not been able as yet to answer even to my own satisfaction, is as to whether or not this weighting process entered into the mileage scales which are set forth in your Exhibit No. 3, or whether, in arriving at those mileage scales, or in other words, in arriving at the expense——

Chairman Aitchison: Well, now, just a moment. Ask the witness one question at a time, please.

Mr. McCollester: That is what I am doing, your Honor; I am still asking him the same question.

By Mr. McCollester:

Q. —or whether, in arriving at the expense, for example, for 20 tons in a box car moving 100 miles, you took the ratio of loaded to empty miles for box cars reported by the rail- [fol. 3244] roads, or you took some weight figure.

A. We took a weighted figure. For example, in the case of box cars, the carriers variously reported 31, 32, 33, 34 or 35 per cent empty return, for box cars. We wanted to use a figure as far as possible that would represent the average central tendency, so to speak, for the entire East. We therefore took those figures for each railroad, and weighted them by the carloads moved in box cars.

Q. By each railroad?

A. Yes.

Q. I see.

A. And the same way with the tare weights also. By and large, there was relatively little variation in the reported figures. What there was might only throw the per cent up or down one or two per cent. But that was the extent to which we used those tare weights—that was the extent to which we weighted the tare weights, rather, I should say.

Q. Now, Doctor, the figure as to ratio of empty to loaded mileage was universally greater in the case of gondola cars than it was in the case of box cars, was it not?

A. Yes.

Q. To the extent, therefore, that you have assumed, for purposes of your computation, that freight moved in gondola cars which actually moved in box cars, you have [fol. 3245] exaggerated the gross ton miles and have exaggerated the costs, have you not?

A. Well, we developed the cost by classes of equipment based on the empty return ratios that have been shown in these scales. If traffic moved in a box car, we turned to the box car scale, and if it moved in a gondola car, we turned to the gondola scale.

Q. I see.

A. The carriers, in reporting their per cent empty return to us, did not give it to us by classes of traffic, but they gave it to us by types of equipment. Now you refer to "the freight." The only way in which the freight would enter into that, would be with respect to the weight that we gave to the Norfolk & Western, for example, versus the Chesapeake & Ohio, or the Virginian.

Q. Well, now, Doctor, as to the kind of equipment which was used for any particular sort of traffic: the determination of that was based upon your judgment, rather than upon anything that was actually reported to you by the carriers; that is correct, is it not?

A. Yes. That was principally based upon a study which we had made in the Commission, with the assistance of the Bureau of Traffic.

Q. And if in that study you have assigned to open-top equipment, freight which customarily is handled in box [fol. 3246] cars, you have increased the cost to the extent that gross ton miles for open-top equipment exceed the gross ton miles for box car equipment; that is correct, is it not?

A. Well, that would not necessarily follow, no, sir. If, for example, one railroad reported an empty return on

gondola cars of 90 per cent, and another reported an empty return on gondolas of 80 per cent, and if in weighting the two, we took into consideration some traffic that customarily moves in box cars, whatever error we had would apply to both of those railroads; and if we raised their weighting factor, in the case of both, by 3 per cent, because we charged box car traffic to gondola and hopper car traffic, both weighting factors would be raised in the same proportion, and we would therefore come back to the very same figure that we started out with,—unless, perchance one of the carriers happened to carry a larger or a smaller percentage of that class of traffic.

Q. Well, then, when you came to aggregate your costs for each group of carriers on a territorial basis, and you took the total traffic moved, separated by commodities, if you assumed the movement of a particular commodity in open-top equipment that really moves in box car equipment, such as iron and steel, for example, and you used the open-top equipment cost, you would be using a cost that included a greater gross ton mile figure than would actually be the [fol. 3247] fact, as to that traffic; is that not so?

A. No, sir, I would not say so. I think that you are attaching too much importance to the assignment of traffic to classes of equipment. Except for the weighting that I indicated, the classification of commodities by classes of equipment has little effect on the cost scale. Primarily we ran the cost by classes of equipment. Now, If you want to know what the cost was of moving steel in gondola cars and hopper cars, you turn to the appropriate tables. If you want to know what the cost was of moving steel in box cars, you turn to the box car table. It would have the influence that I spoke of before, however,—that if we allocate or assign steel to gondola and hopper cars when actually it moves in box cars, and we come to weight the various railroads, we have the weighting factor of every railroad a little too high—say they were all 3 per cent, or 5 per cent, too high.

Q. That is my point.

A. But as I stated before, when we come to group them, if we raise all of the weighting factors by approximately the same percentage, we come right back to the same result, just as though we did not have any error in there.

Q. Well, that would depend also upon the ratio of the

different kinds of freight to each other in the different territories, would it not?

[fol. 3248] A. Well, if it should so happen that one railroad reported a much different per cent empty return than another railroad, and that railroad had a great deal of that particular commodity which was misassigned, it might have that effect, yes, sir. But the territorial grouping, based on per cent return empty of the carriers, was very similar, except on some stock cars occasionally, or on flat cars, where we had some variation; but when we average out all of the roads in all of the territory, I do not think that would have a great deal of influence.

Q. Well, now, I am concerned, for example, Dr. Edwards, with iron and steel, rated fifth class, which you have attributed to open-top equipment. Now, that is very important traffic, of course, in Official Territory; and if it should be the fact that, to a large extent, that commodity in Official Territory moves in box cars instead of open-top equipment, the result of your method would be to attribute to the movement of iron and steel articles a 90 per cent empty movement, ratio of empty to loaded, or approximately that which is the open-car ratio, rather than the 33 per cent ratio, empty to loaded, which is the box car ratio; is that correct?

A. No, Mr. McCollester, that is not correct. — have not stated, for the purpose of computing these cost scales, to what type of equipment you should turn for the specific class of commodity. If iron and steel moves in box cars, [fol. 3249] you can turn to the box cars and get the percentage return—or get the cost, rather, based on a 33 per cent empty return; and that would be true even though it was shown to be assigned to gondola and hopper cars, that assignment being for the purpose of these weightings that I have spoken of. But whether we assign it to gondola and hopper cars, or assign it to box cars, the variations in the tare weights and per cent empty return are relatively small, and I do not think it would have any significant difference—or made any significant difference. Now, if iron and steel move 70 per cent in box cars and 30 per cent in gondola and hopper cars, then if one wanted the cost for iron and steel, one should take the cost for both classes of equipment, giving a weight of 70 to that cost which is found for box cars, and a weight of 30 to that cost which is found for gondola and hopper cars.

Q. Yes, but your unit cost being for each mile, for each type of equipment, you then have been thrown out of the correct ratio by an improper assignment of freight to one type of equipment, versus another, have you not?

A. No.

Q. You do not agree with that?

A. No.

Q. All right. Now, there is just one other thing, I believe, Doctor, if you please. In your Exhibit No. 11, at [fol. 3250] page 18, you refer to the use by you of studies made in connection with the Automobile Case, Docket No. 28195, for the purpose of reaching some conclusion as to circuity of movement. It is not entirely clear to me as to whether, in that connection, you have used all of the movements which were shown in your Exhibit No. 331 in Docket 28190, which included, as you will recall, a very large proportion of theoretical movements where no automobiles were ever transported, or whether you have confined your showing here to routes where there are actual movements, in accordance with the Commission's own exhibits in the proceeding. Can you state which is the case?

Mr. Smelker: That question is a rather long one, Dr. Edwards. Would you like to have the question reread?

The Witness: No.

By Mr. McCollester:

Q. What is your answer, then, Doctor?

A. The percentage of circuity shown was based only on movements where there was actual traffic.

Q. And you eliminated from consideration all of those theoretical movements which we discussed at such length in the Automobile Case; is that correct?

A. Yes.

Q. This is simply where there were actual movements?

A. Yes.

Q. All right.

[fol. 3251] A. I might say—if I may just add this——

Q. Yes.

A. —that since that time we have made studies of all of the remaining traffic movements. Those studies, amounting to approximately 400, came out with a circuity of between 13 per cent and 14 per cent. Those were all based

on data for which we had actual traffic studies, over actual routes.

Mr. McCollester: That is all I have, Doctor. Thank you very much.

Chairman Aitchison: Is there any further cross-examination of Dr. Edwards? (No response.) Apparently not. You are excused.

(Witness excused.)

Mr. Smalker: If the Commission please.

Chairman Aitchison: Mr. Smelker.

Mr. Smalker: I would like to state for the record at this time that Dr. Aitchison is now preparing a traffic study covering the territorial movement of carload freight for a period subsequent to May 27, 1942.

Chairman Aitchison: As of some date in September of 1942, as I understand it.

Mr. Smalker: Yes. —which will supplement her Exhibit No. 14, covering that date. I now ask permission to submit that study as an exhibit in this case, when it is completed, which will be after this hearing is concluded. Copies will [fol. 3252] be mailed to all parties of record in the proceeding.

Chairman Aitchison: I understand that some thirty people are working on that at this time. It will supplement the previous exhibit, No. 14, and will be gotten up in the same way. Is there any objection to that course?

Mr. Plunkett: May I inquire, if the Chairman please, what period it will cover?

Chairman Aitchison: Some date in September of 1942, for which the waybills have been called, just as they were with respect to May 27; and they are being analyzed in the same way.

Mr. McCollester: You say, as I understand it, Mr. Chairman, that it will be similar——

Chairman Aitchison: To Exhibit 14.

Mr. McCollester: —to Exhibit 14.

Chairman Aitchison: Yes, only bringing it down to a later date, some time in September, 1942.

Mr. McCollester: Well, just speaking for myself and my clients, now, we have some criticism of Exhibit 14, in Dr. Aitchison's allocation of certain commodities to class rate traffic as distinguished from commodity rate traffic.

Mr. Bell is going to touch on that in his testimony. I assume from what you say that the same method that was employed in the preparation of the first exhibit, is being employed in the preparation of the latter exhibit, and [fol. 3253] therefore the same criticism will apply to the new study.

Chairman Aitchison: It may be so understood.

Mr. McCollester: If it may be understood that our criticism, if justified, applies to the latter study, then I have no objection, as far as I am concerned.

Chairman Aitchison: Very well then. There seems to be no objection to that being done. All parties to the record, of course, will receive copies. There is some infirmity, of course, in taking just one day. You may proceed, Mr. McCollester.

Mr. McCollester: Call Mr. George B. Robinson.

George B. Robinson was sworn and testified as follows:

Mr. McCollester: If the Commission please, Mr. Robinson will submit two exhibits. The first one, the larger one of the two, with a green cover, consisting of 81 pages and with Mr. Robinson's name on the cover page, I ask to have identified at this time as Exhibit 159. The other exhibit, the smaller of these two, with a brown cover, which does not have Mr. Robinson's name on it, but which says, on the cover "Submitted on behalf of New York State Division of Commerce," I ask to have identified at this time as Exhibit 160.

(Exhibits Nos. 159 and 160, Witness Robinson, marked for identification.)

[fol. 3254] Direct examination.

By Mr. McCollester:

Q. Mr. Robinson, will you please state for the record your full name and where you reside.

A. George B. Robinson, Albany, New York.

Q. What is your present position with the Division of Commerce of the State of New York?

A. I am Assistant Director of the Bureau of Planning of the Division of Commerce, State of New York, which is in the Executive Department of the State of New York.

Q. What are your duties in that position?

A. My duties include the direction and supervision of economists and statisticians in the analysis and research work connected with studies of problems of industry and commerce.

Q. Will you briefly outline for the Commission your own personal educational background.

A. My college education was interrupted by service in the last war, and thereafter by several years of industrial experience, followed by a resumption of graduate work, which resulted, in 1935, in the degree of Doctor of Philosophy, at Cornell University, in economics and allied subjects.

Q. Have you had any business experience?

A. Yes, sir, I have, in connection mostly with work in the automotive industry.

Q. What in a general way have been your activities since [fol. 3255] you received your doctorate in 1935?

A. I have been employed as an economist and statistician by various federal and state agencies and departments.

Q. For the purposes of this proceeding, and as a part of the regular duties of your office, have you made certain statistical studies and had the results of those studies compiled under your direction and supervision?

A. Yes, sir.

Q. And that compilation is embodied in the exhibit which has been marked for identification as No. 159, is that correct?

A. Yes, sir.

Q. That exhibit was prepared under your supervision and direction by your staff, was it not?

A. Yes, sir.

Q. Now, bearing in mind that one of the questions involved in this proceeding is whether or not the industrial development of the South has been unduly retarded as compared with that of other sections of the country, let me ask you first whether in your opinion statistics with respect to population, number of manufacturing establishments, and the like, for the period of one year, for one single year, prove anything with respect to that issue.

A. Very little, if anything.

Q. The entire country has grown in population and wealth over a period of years, has it not?

[fol. 3256] A. Yes, sir.

Q. Therefore, what procedure do you think ought to be followed in determining whether or not one section of the country has been unduly retarded in its industrial development in relation to another section of the country?

A. It would seem to me that the study of trends is an important approach to the solution of that question.

Q. And is it in that manner, and for the purpose of establishing the trends, that you have compiled the statistics in the way that you have, in your Exhibit No. 159 for identification.

A. Right.

Q. Turning now to pages 3, 4 and 5 of your Exhibit No. 159, will you please explain, and make such comments as you deem pertinent, on the general method employed in preparing the exhibit and the statistics set forth therein.

A. The pages mentioned are, or comprise, an introduction, in which an explanation is made of the source of the data, and certain necessary comments set forth to make clear the relationship of the different parts of the data, because of differences in definitions in the Census, or the Census of Manufactures, or definitions as adopted and changed from time to time in taking the census. The footnotes of the various tables also add certain information that will assist in an understanding of the exhibit and the [fol. 3257] tables. Page 6 of the exhibit is a map. I do not know that it needs any particular comment.

Q. No, perhaps it does not require any particular comment, but you might just explain briefly as to the purpose of it.

A. Because data is not available, in general, for areas of less than a state in size, it is necessary to make certain readjustments of boundary lines. Consequently, the boundaries as used and stated on the map on page 6 of this exhibit are those used in setting up the tables that follow. That is not true of every table, that is, but it is true of most of them.

Q. Now, in studying the exhibit, as well as the general form of it, turning to p ge 7, for example, you have set forth there charts which appear to indicate graphically that, as compared with Western territory and Official territory, judged both by wage earners, wages, value of products and value as added by manufacture, the trend in the South has been substantially more favorable than that in Official territory and Western territory.

A. Yes.

Q. Those tables of statistics upon which the graphs are based, are set forth on the pages immediately following each graph; is that correct?

A. Yes, sir. The absolute data are given, and the index numbers, as derived from the data shown in those tables, [fol. 3258] and then the charts are plotted so as to save time in ascertaining the relationships that exist.

By Chairman Aitchison:

Q. Well, now, right there, I am wondering why you did not use a logarithmic scale, and why you did not go down to zero for your base.

A. Well, the reason was, Mr. Chairman, because it was felt that 1929 was more comparable in many ways to 1939, than any of the previous years, in that it was more like 1939 in many respects than any other year that could have been chosen.

Q. No.

A. The base of 1929 was a point of departure, before the years of the depression set in.

Q. You have misunderstood the question.

A. I am sorry.

Q. In the first place, I want to know why you did not plot this on a logarithmic scale, if you wanted to show trends.

Mr. McCollester: On a what scale, please?

Chairman Aitchison: On a logarithmic scale.

By Chairman Aitchison:

Q. That is what is usually employed by statisticians when they want to show trends, is it not?

A. Frequently.

Q. A logarithmic scale?

A. Frequently, yes, sir.

Q. Why did you not use that, then, instead of what you have used here?

[fol. 3259] A. Well, simply because 100, for 1929, was taken as the base in the derivation of these index numbers.

Chairman Aitchison: Well, the point is that loking at this, you get an erroneous impression, when you do not have zero.

Mr. McCollester: No, Mr. Chairman, because the whole purpose of this is to show, in relation to a common date, how each territory has progressed; and it does not make any difference what date you start from, or what wealth you start with. If you take your one year as your base year, it then shows that all territories went down during the depression in some respects, and it then shows how they have moved since the depression.

Chairman Aitchison: Well, I do not care to argue the matter further, although I think, if possible, you ought to show the complete scale, in the usual way, as is done by statisticians who want to show trends, and go down to zero, instead of exaggerating it and making everybody think that the value of products, for instance, in 1933 almost completely petered out, when as a matter of fact it was about 45.

Mr. McCollester: Your question, Mr. Chairman, if I understand it correctly, is simply this: why did not the block here go down to zero on the one side, and go up to 1,000, on the other side. Is that it?

Chairman Aitchison: Go up to 100.

[fol. 3260] Mr. McCollester: Or rather, go up to 100.

Chairman Aitchison: Or 110, whatever it is.

Mr. McCollester: There was no need for doing that, Mr. Chairman, because this is presented simply to show, not the absolute ratio for each territory, but it is to show how each territory compares with the others, and to show how each line followed along, in relation to the other. That is correct, is it not, Mr. Robinson?

The Witness: Yes, sir.

Chairman Aitchison: But if you want to show trends, you can do it much better by using a logarithmic scale, than by this.

The Witness: That would be particularly true, Mr. Chairman, if you are starting from a certain point which you want to compare. That is particular- true when the data start from that point. In this particular case, however, the range is fairly slight. For example, in wage earners, the index for the South is only 5 per cent—or 5 points above 100. That is, in 1937 the index is 105, and the same thing is true also in 1939. Then for Official Territory the index in 1937 is 97, and drops to 88 in 1939. If that were plotted with the use of a great deal of white paper, on a

scale showing zero to 110, those variations would be so slight as to be difficult to distinguish with the naked eye.

Chairman Aitchison: I do not care to pursue the matter [fol: 3261] further at this time.

Mr. Norman: If the Commission please, may I ask a question in that connection? This does not pretend to show the actual relationship, for example, of value added by manufacture as between the different territories, but it is simply intended to show the trends. Is that correct?

Mr. McCollester: The actual figures are in the tables that follow, Mr. Norman. They are all there.

Mr. Norman: I understand that, Mr. McCollester, but just looking at this, one would think that the value added by manufacture is greater in Southern territory than it is in Official Territory.

Mr. McCollester: No.

Mr. Norman: Although that is not so.

Mr McCollester: Pardon me. That is not the purpose, and the witness clearly explained that. The purpose is to show the trend, to show whether the value added by manufacture in the South has varied to a greater extent upward or downward than it has in the North; and it shows that in general the variation has been more favorable in the South than the variation in the North, in relation to 1929, as the base unit.

Chairman Aitchison: Proceed:

By Mr. McCollester:

Q. Now, Mr. Robinson, have you a couple of corrections [fol. 3262] to which you desire to call attention, on page 9 of the exhibit?

A. Yes, sir. On page 9 there are some errors in the figures in the 1937 column headed "Millions of dollars" opposite Massachusetts. The figure should read 556, instead of 356. Then just two lines below that, in the same column, opposite Maine, New Hampshire and Vermont, the figure should be 152 instead of 352. That, of course, will change the index numbers under the 1937 column, from 51 to 80, and two lines below that, from 197 to 85.

Mr. McCollester: Now, if the Commission please, I would like to direct attention to page 14 of this exhibit, chart No. 6, and the tables that immediately follow that, in view of the statement made on behalf of the South, that

the South has been prevented from an increase in its employment in manufacturing industry, and that there has not been sufficient diversion from agricultural employment to manufacture. You will see there that there has been a greater decrease in agricultural employment in the South than there has been in Official Territory, and a substantial increase in manufacturing employment in the South as compared with a decrease in manufacturing employment in Official Territory.

By Mr. McCollester:

Q. What I have just stated is borne out by the statistics that follow the chart on page 14 of your Exhibit No. 159, is it not, Mr. Robinson?

A. Yes, sir, that is right.

[fol. 3263] Q. The tables set forth on pages 15 and 16 give the data and the percentages.

A. Yes, sir.

By Chairman Aitchison:

Q. Just a moment. In Western Territory, do you include the Pacific Coast states?

A. Yes, sir, that is correct; everything west of the Mississippi River is included in there.

Q. You have them separately stated in Table 15.

A. Well, I should say that the charts are based on the three territories, but the detail for some of the states and some of the Census regions is given in the papers themselves.

By Mr. McCollester:

Q. Well, in your tables you show both the aggregates for the several territories, as indicated on the map——

A. Yes.

Q. —and then separate figures for some of the individual states; that is correct, is it not?

A. Yes, sir.

Q. Now, I believe that there is also a correction on page 24 of the exhibit, to which you wish to call attention.

A. Yes, sir.

Q. Will you state that.

A. In the set of columns headed "Per cent of population 14 years old and over", in the column headed "Seeking work —with experience", the figure for New York should be [fol. 3264] 6.4 instead of 1.4.

Q. Do this table and the charts which immediately precede it, on page 23 of the exhibit, show that in the year 1940 there was a greater proportion of unemployment, compared to a favorable labor force, in Official Territory than there was in the South?

A. Yes, sir.

Q. Now, will you please proceed very briefly, Mr. Robinson, with certain other features of the exhibit with respect to which you desire to make special or particular comment.

A. Yes, sir. Just very briefly, chart No. 12 on page 26 of the exhibit is simply a group of trend lines, showing the trend of employment in nonagricultural establishments, based on 1940 as 100, has increased during 1940, 1941, and the first half of 1942, relatively at the same rate in Southern, Western, and Official Territories. This is from the United States Department of Labor, Bureau of Labor Statistics. Chart No. 13, on page 28 of the exhibit, is a chart showing trends of income payments. This is based on income received by persons, and is not national income, as is frequently used in certain data. The difference shown is that income in 1941 in Southern Territory had an index number of 128, as compared to 115 in Western Territory and 105 in Official Territory.

Q. Well, now, just so that Mr. Norman may not be [fol. 3265] confused as to this particular point, Mr. Robinson: You do not mean by this chart to show that the actual income per person was greater in the South than it was in Official Territory, do you?

A. No.

Q. But that the purpose is to show that, in relation to 1929; the income per person in the South has progressed to a greater extent than in Official Territory; is that correct?

A. Well, actually, the table is not based on income per person, but rather, upon the total income received by persons——

Q. By persons. Excuse me.

A. —as contrasted with the national income.

By Chairman Aitchison:

Q. Well, does that mean wage earners?

A. Yes, sir,—all gainfully occupied.

Q. Would that mean the entrepreneur also?

A. No.

Q. How?

A. Pardon me. I was wrong in my answer, Mr. Chairman. On page 4 the definition says that income payments comprise salaries, wages, other labor income such as pensions, compensation for injuries, and so forth, entrepreneurial income, representing the net earnings before owner's withdrawals, of unincorporated business, and dividends, interest, and net rents and royalties received by individuals. [fol. 3266] This, then, is all income.

Q. Exclusive of cost.

A. Yes.

By Mr. McCollester:

Q. Is it correct, Mr. Robinson, to say that in general where there is a question as to the significance of the terms or the particular statistics that have been used, that is explained in the notes on pages 3 to 5 of the exhibit?

A. Yes, sir.

Q. Please continue.

A. Just briefly, chart No. 14 on page 28 of the exhibit is based on contracts of over $40,000 each for building construction, such as factories and warehouses, but not including such commercial structures as office buildings, stores or residences. The data were obtained from the Engineering News-Record, a McGraw-Hill publication, and includes in 1940 and 1941 industrial construction from Federal funds. This shows the great increase in certain parts of the United States, as given by the three territories, in the years 1940 and 1941.

By Chairman Aitchison:

Q. Would this include, for instance, Boulder Dam, Grand Coulee, and Bonneville?

A. No, sir, it would not. These were factories and warehouses. Chart No. 15, on page 13 of the exhibit, contrasts retail sales, wholesale sales, and sales by wholesale [fol. 3267] merchants, the latter being those wholesalers who actually handle the goods, that is, own them and pass the title on, and have possession of the goods, showing the difference in the indexes, as plotted, for the years 1929 to 1939 for the three territories. On page 33, charts 16, 17, 18 and 19 show the number of failures and the relationship of liabilities, based on the average of 1928 to 1930 as 100, using the data as supplied by Dun & Bradstreet, to contrast the

trends in business failures in the three territories, and also those failures in the manufacturing and mining industries.

By Mr. McCollester:

Q. It shows here that generally the indices for business failures are less favorable in Official Territory than they are in Southern Territory; is that correct?

A. Yes, sir, that is right. The rest of the exhibit consists of certain data for individual industries. There are 31 of these tables, and just in order to save time, I might direct your attention to a few of them, such as, for instance, chart No. 22 on page 39 of the exhibit, showing the percentage changes in the canned and dried fruits and vegetables industry. As defined in the footnote on the next page where the table is shown, this includes quick-frozen foods, preserves, jams, jellies, fruit butters, and other commodities that are usually classified in the canned and dried fruits and vegetables industry. The notable change, of course, is in [fol. 3268] the percentage increase from 1929 to 1939, in number of wage earners, value of products, and value added by manufacture, in Southern Territory. There was no increase in number of wage earners in Western Territory, and probably one of the most striking things in the chart is the actual decrease in value of products and value added by manufacture, in Western Territory.

Q. Here the South has increased relatively much more than Official Territory; is that correct?

A. Right.

Q. In the period covered, it has increased much more, in percentage?

A. Yes.

Q. Proceed.

A. On page 42 of the exhibit, percentage changes in the cotton manufactures industry are shown, in chart No. 25. This includes cotton broad woven goods, cotton yarn, and cotton thread, and shows a decrease in Official Territory and an increase in Southern Territory—or a decrease less than in Official Territory. Turning to page 45, chart No. 26 shows percentage changes in the dyeing and finishing textiles industry. This includes the dyeing and finishing of cotton, rayon, silk and linen textiles; the dyeing and finishing of woolen and worsted goods, and cloth sponging and refinishing. It shows decreases for Official Territory in number of

[fol. 3269] wage earners, value of products, and value added by manufacture.

Q. Showing also a very great increase in number of wage earners in the South, does it not?

A. Yes.

Q. Continue.

A. Chart No. 27, on the same page, shows that increases were the case in all three territories in fabricated structural steel and ornamental metal work industry.

Q. Did you say, increases?

A. I beg your pardon. Decreases, I should have said, that decreases were the case in all three territories for the three factors mentioned.

Q. But the decrease is greater in Official Territory than it is in the South, is it not?

A. Yes, sir. Now, on page 51 of the exhibit are shown two tables; one, showing the percentage changes in the furniture industry, including store and office fixtures; and one showing percentage changes in the footwear—except rubber—industry. The number of wage earners in the furniture industry increased in Southern Territory with decreases in Official and Western Territories. There were greater decreases in Official and Western Territories than in Southern Territory in value of products and value added by manufacture. The variations are so great in the other table, No. 30, for the footwear industry, as to show marked [fol. 3270] contrast, with increases in the Southern Territory as compared to Official and Western Territories. On page 51 of the exhibit, Chart No. 32 shows percentage changes in the heating and cooking apparatus industry, which is defined at the bottom of page 55, following the table. In all three categories Official Territory shows percentage decreases, in number of wage earners, value of products, and value added by manufacture, whereas, Southern and Western Territories show relatively large increases. Table No. 34 on page 57 of the exhibit shows percentage changes in the house furnishings industry, that industry being defined in the table on the next page, or rather, in the footnote to the table on the next page, as "engaged primarily in the manufacture of curtains, draperies, bedspreads, sheets, pillow cases, table cloths, comfortables, etc." This chart shows an increase of 3326 per cent in number of wage earners in Southern Territory over the 10-year period. In value of products the percentage

increase is 604 per cent; and in value added by manufacture, 66.8 per cent; whereas, small increases or very minor decreases, are shown for the other territories. Now, just so that you will not get the impression that this is a statisticians' holiday, so to speak, as far as this table is concerned, I would like to point out the table on the next page——

By Mr. Norman:

Q. What page?

[fol. 3271] A. Page 58, Table 34, showing in the column headed "Number of wage earners" that in 1939 there were 27,530 in the United States, and the percentage increase was 74.

[fol. 3272] In New York, the number, in 1939, wage earners in the housefurnishings industry, 6204, a decrease of 4 per cent. Georgia, in the same column, showed an increase of 15,535 per cent, from 40 workers, wage earners I should say, to 6254. And actually, the number of wage earners reported in Georgia exceeds that in New York in 1939.

By Mr. McCollester:

Q. In other words, that is an instance of a brand-new industry, practically, in Georgia, which in the ten-year period has reached a point greater than the industry in New York State?

A. Yes, sir.

By Chairman Aitchison:

Q. Would you mind saying whether or not, in your judgment, that might be partly attributable to the decadence of the house manufacture of such things as curtains, draperies, bedspreads and so on in the South?

A. Decadence, did you say?

Q. Yes. In other words, instead of making them themselves, they buy them?

A. I am afraid I can't answer that question. Certainly the change, in general, I believe, in the country as a whole, has been in that direction.

Mr. McCollester: At any rate, it shows, Mr. Chairman, that over 6,000 persons in the State of Georgia are now gaining employment from that industry.

By Com. Alldredge:

Q. Does this include handcraft workers?

[fol. 3273] A. I doubt if it does, because I believe the census of manufactures is collected through industries, that is, through factories, many of which are questioned through questionnaire and checked up by field workers, who check up on the schedules as sent in. I would think not.

There are only two more charts that I——

By Chairman Aitchison:

Q. Well, what has happened with respect to this house-furnishings? What has happened in the remaining states in the South? Were there no wage earners either in 1929 or 1939?

A. Footnote E shows that in Southern territory there were 24 other establishments listed by the census as located in other states, that is, 24 of them were establishments in Southern territory. Those are frequently omitted because they are so situated, as far as the census is concerned, that if they were reported by states, that the particular establishment would be reported in such a way that its data would stand alone and would be ascribed to the one particular establishment. In other words, there is that type of hiding the identity of the individual establishment through "other states."

There are two other tables that I would like to speak about, briefly. No. 37, on page 60, percentage changes in the meat packing industry, showing large percentage increases in the number of wage earners, value of products and value added by manufacture in Southern territory as [fol. 3274] contrasted with decreases or very minor increases in Official and Western territory.

Mr. McCollester: The Commission might look at Table 36 on that same page, showing the same situation as to the mattress and bedspring industry.

The Witness: On page 76 is a chart, No. 47, showing percentage changes in the textile machine industry, which is defined under the table on page 77 as "machinery for use in the textile industries, either 'knocked-down' or fully assembled," showing that in this industry, which in 1939 had 21,904 wage earners, there has been a fairly large

percentage increase in the South and relatively large percentage decreases in Official territory.

By Mr. McCollester:

Q. Now, Mr. Robinson, in order that we may not convey an unfair impression as to this textile machinery business, on page 77, showing the absolute figures, that indicates, does it not, that the industry is still a relatively infant industry in the South, so far as number of employees is concerned?

A. That is correct.

Q. But it does show that Massachusetts, which was the big state for producing textile machinery, has had a falling off of 22 per cent in the ten-year period?

A. In the wage earners, yes.

Q. In the wage earners, and also in value added by manufacture.

[fol. 3275] A. Yes.

Q. Whereas, the industry is increasing from a small beginning but it is nevertheless increasing in the South?

A. That is correct.

Chairman Aitchison: You mean, of course, four states in the South?

Mr. McCollester: Yes, in four states in the South, particularly.

Mr. Norman: What is that line for on that page, "States in Southern Territory"? The figures opposite that, what does that mean, 849?

The Witness: 849 is——

Mr. McCollester: The total.

The Witness: The total for the states that are listed below. It has a line drawn under it to show subtotal.

Mr. McCollester: Four states.

Mr. Norman: I see.

Mr. McCollester: And I might say, Mr. Chairman, only five states shown for Official territory.

The Witness: I should like to point out——

By Chairman Aitchison:

Q. Now, is this a good illustration of the trend of the figures? Now, the growth of Tennessee, the total was three

wage earners in ten years, from 22 to 25, and shows a 14 per cent increase. That is not very significant.

[fol. 3276] A. No, it is not.

Mr. McCollester: You must watch out, Mr. Chairman, but the point is here that the contention made by the South is that, in the first place, they say that industrial workers are tending to migrate to the North, and the statistics show that that can't be true because, generally speaking, wage earners in manufacturing establishments in the North are decreasing and are increasing in the South; and also they say that manufacturing industry is being throttled in the South, and if they are having any increase in the South, while the North is having substantial decreases, I submit that that conclusion is not possible.

Chairman Aitchison: Well, going back to page 40, canned fruits, where he shows 68 per cent growth in six states. First, there are several states in the South which are not included at all, and next——

Mr. McCollester: And there are several states in the North which aren't included, either.

By Chairman Aitchison:

Q. But we find that of these states, three of them show deficits, three of the states, and the great growth is in Florida; and that, unquestionably, isn't it, Mr. Witness, is due to the fact that they have developed means of canning citrus fruits down there?

A. I think that is largely true, yes.

Q. And possibly strawberries?

[fol. 3277] A. That is right, yes, sir; I am quite sure it is.

Q. That is one industry alone. One state accounts for nearly all of that. Do you know what the change is in Georgia? That is the other state that shows an increase.

A. No, I don't know what has caused that increase.

Chairman Aitchison: That is all, Mr. McCollester.

The Witness: I should like to point out that on page 5, in the introduction, is set forth the criteria used in the selection of the 31 industries discussed individually in the latter part of the exhibit. An attempt is made here to show why the particular 31 were selected, and perhaps that indicates why some others were left out, as far as the discussion of individual states is concerned.

By Mr. McCollester:

Q. Well, now, Mr. Robinson, based upon all of the statistics shown in your Exhibit 159, in your opinion has the industrial development of the South, as a whole, been retarded by freight rates or anything else?

A. It apparently has not been retarded, judged by the trends as shown in the statistics given.

Q. It hasn't been retarded at all, has it?

A. I should think not.

Mr. McCollester: We offer Exhibit 159 in evidence.

Chairman Aitchison: Without objection, it is received.

(Exhibit 159, Witness Robinson, received in evidence.)

[fol. 3278] By Chairman Aitchison:

Q. Have you gone into this enough so that you could make a general answer to this question: If you had omitted the Pacific Coast states and the Mountain states, which are a part of Mountain Pacific territory, would it have made any general difference in the trends?

A. No, unfortunately, in making up the table, the inclusion of all of those states west of the Mississippi in one table has hidden any differences that might be found there. That is, in other words, we have not plotted on a percentage basis in most cases the Pacific states as contrasted with the other states in what we have called here, what I have called Western territory.

Q. The eleven western states might have been taken by themselves?

A. That is correct.

Q. By the term "Mountain Pacific Territory," that could be computed, couldn't it, from your tables here?

A. Yes, sir, it could be worked out. No, it couldn't be worked out from these tables as printed here. It could from the original data.

Q. Why couldn't it?

A. Because other states, the last line in most of these tables includes some 16 states: That is, including Arizona and Nevada, Utah, Idaho and New Mexico, in such a way that it could not be derived from the last line on the tables.

[fol. 3279] Q. Well, now, that brings me to this: Did you make any adjustment for the states shown in Official terri-

tory and Southern territory to take into account a part of the allocation of "other states"? I understood you did not.

A. We did not.

Q. Then the same thing could be done if we wanted to split the Western territory into the two groups, could it not?

A. Yes, sir. I understand what you mean and it could be done.

By Mr. McCollester:

Q. In other words, you could split the western states that are separately shown into two groups?

A. On state lines.

Q. On state lines?

A. Yes, sir.

Q. They are on group lines?

A. Yes, sir.

Chairman Aitchison: And as far as those which are not separately shown, he hasn't split them and wouldn't expect anyone else to.

Mr. McCollester: No.

By Mr. McCollester:

Q. Mr. Robinson, at the Indianapolis hearing there was called as a witness for the southern states Mr. Morrell of the staff of the "Manufacturers Record," which was represented to be an authoritative publication, who testified his publication was interested primarily in the South, in the development of the South, and that that development [fol. 3280] as to various types of industries had been retarded by a vicious circle which involved the difference in the freight rate levels between South and Official territory. In the light of that testimony, have you, at my request, made an examination of the files of Mr. Morrell's publication, the "Manufacturers Record," and reproduced in the exhibit marked 160 for identification photostat copies of pages from that publication which tend to show that there has been very important industrial development in the South and have you also examined other publications by southern interests, such as the Houston Chamber of Commerce, and embodied in the exhibit a photostat of pages from that publication and also photostats of advertise-

ments on behalf of the, purported to be on behalf of the State of North Carolina.

A. That is right, yes, sir.

Q. And these are all embodied in your Exhibit 160 for identification?

A. That is correct.

Q. Where there are interlineations or emphasis marks in the exhibit, are those your own?

A. That is correct, they are.

Mr. McCollester: We offer Exhibit 160 in evidence.

Chairman Aitchison: Without objection, it is received.

(Exhibit 160, Witness Robinson, received in evidence.)

[fol. 3281] Mr. McCollester: That is all on direct, unless you have something further you want to state, Mr. Robinson.

The Witness: Nothing.

Mr. McCollester: The witness is offered for cross examination.

Chairman Aitchison: Cross examine.

Cross-examination.

By Mr. Norman:

Q. Mr. Robinson, please turn to page 7 of your Exhibit 159. I understand that you explained that that simply showed the relationship of the trends and did not show at all the actual relationships as between Chart 4, the value added by manufacture in the South as compared with Official territory, is that correct?

A. That is correct.

Q. Did you have the figures on which you could have charted the actual relationship?

A. Yes, sir. They are on the next page, on page 8 in table 1.

Q. Why did you not chart them?

Mr. McCollester: Because I asked him not to, Mr. Norman. I was interested in making it easy for the Commission to see the trends, and we intended to give the full information to the Commission by showing the actual figures in the statistical tables and then simplifying it by having charts, simply showing trends. That was my direction.

Mr. Norman: Then does the witness say that he didn't do [fol. 3282] that because his counsel instructed him not to?

The Witness: That is correct.

By Chairman Aitchison:

Q. Did he instruct you not to or just simply he didn't instruct you?

A. That is more nearly correct, sir.

Mr. McCollester: That is right.

By Mr. Norman:

Q. Now, turn to your page 58. Your counsel had you to comment on the fact that in housefurnishings, Georgia, in 1939, had actually more wage earners than New York and had some astronomical increase in percentage. Here it is, 15,535. Now, go over to the other side of that page, "Value Added by Manufacture." I call your attention to the fact that although Georgia had slightly more employees or wage earners, it actually added less than half as much in value. How do you explain that?

A. I can only explain that these are the figures taken from the Census of Manufactures. These are the reports as given by the manufacturers on schedules and checked by field workers of the Bureau of the Census.

Q. Well, what do you deduce from that showing?

A. There are several deductions that can be made. For example, that greater profits were realized in the southern manufacture than that in Official territory, because of the relationship given there.

Q. How would that come about? How is value added arrived at?

[fol. 3283] A. On page 3 of the introduction, there is a definition in paragraph No. 3: "value added by manufacture is the total value of products less the cost of materials, containers, fuel and purchased electrical energy," and since 1937, there is also deducted contract work performed outside the factory, which——

Chairman Aitchison: I want to ask what that is. You must know the answer, don't you, in connection with the State of New York?

Mr. McCollester: I can't hear you.

By Chairman Aitchison:

Q. Does this reflect at all, as far as New York is concerned, any betterment in conditions resulting from the abolition or diminution of the sweat-shop system?

A. I don't believe that it does, no, sir; not comparing 1939 with 1929.

Q. Well, I mean generally, this exhibit.

A. That could easily be true, yes, sir.

By Mr. Norman:

Q. Now, going back to my question, inasmuch as the value added per wage earner is more than double in the State of New York what it is in the State of Georgia, does that not necessarily establish that the product of manufacture was less highly processed and less valuable, generally, in Georgia than in New York?

A. Not knowing the effect of some of the other factors, that might be the conclusion you would draw, although there [fol. 3284] are several other deductions that are made, such as the cost of materials and electrical energy—cost of electrical energy.

Q. Well, now, would you say from your experience that those factors could possibly amount to as much as 100 per cent?

A. During the period starting with 1929 and lasting through a decade, a good share of which was a depression, I am not sure that I could assign the exact values to the various factors.

Q. Now, that brings up the question, the period you pick is generally known as the depression period, isn't it?

A. Yes, sir.

Q. You started at the peak of 1929, the peak year?

A. That is right.

Q. Perhaps of all time, and you have gone straight through the depression period?

A. The peak year for all time?

Q. 1929.

A. We purposely avoided many of the figures for 1941, 1942, because they are affected by what has happened to industry in connection with the war, and have broken many of the ceilings for 1929 already.

Q. Well, when I said peak year of all time, I meant pre-war, but 1929 was a peak year, a peak peace year, and you started with it and went through the depression?

A. That is right.

[fol. 3285] Q. And stopped before it started back up again?

A. It had started back up again.

Q. Perhaps I should say before it had really gotten back into a boom period.

A. Yes, sir, into the boom period we are in now, yes, sir.

By Mr. McCollester:

Q. That is, you stopped before the war period?

A. That is correct.

Mr. Norman: He stopped before that. 1940 wasn't war period.

By Mr. Norman:

Q. Now, Mr. Robinson, turn to your page 77. Your counsel had you to comment on the fact that Massachusetts had lost, in textile wage earners, 22 per cent, 1939 as compared to 1929, and that the South had gained. Here you show actual figures, not percentages, and it appears that Massachusetts lost 2328. Of these, the four southern states, the only ones you show, gained 221 and the one state, New York, gained 88. Now, what do you ask us to deduce from those figures?

A. Simply that the manufacture of textile machinery once, as I understand it, entirely located in Official territory, has actually begun the movement, I believe, in the expression used by counsel, as an infant industry into Southern territory.

Q. Well, it is an infant industry in New York; it has be-

[fol. 3286] gun to move in there too, hasn't it? New York increased 36 per cent in its wage earners.

A. Yes, it increased something around 80 persons.

Q. Yes. Which shows that if you are just going to deal in percentages, you are not going to get a very true picture of what is the situation, are you?

A. That is why the absolute is given in practically all of the tables.

Q. Yes, but when you go to chart, you don't use absolute figures, back here on Chart 7?

A. No, sir.

Q. You don't use anything but percentages?

A. That is correct.

Mr. Norman: That is all.

Chairman Aitchison: Any further cross examination? (No response.) Mr. Robinson is excused, unless Mr. McCollester has something further.

Mr. McCollester: No, I have nothing further. You are excused, Mr. Robinson.

(Witness excused.)

Chairman Aitchison: We are running behind our schedule.

Mr. McCollester: Mr. Chairman, you will understand that these figures were my own rough estimate, were not a time limit in any sense of the word. I may be quite wrong. I am very bad in estimating how long I will take to talk, to [fol. 3287] say nothing of somebody else.

Mr. Van Meter, will you take the stand, please.

Chairman Aitchison: Be sworn, please.

T. W. VAN METER was sworn and testified as follows:

Direct examination.

By Mr. McCollester:

Q. Will you give your full name to the reporter, please, sir; state where you reside.

A. T. W. Van Meter. I reside in New York.

Q. You are a Professor of Transportation at Columbia University, are you?

A. That is right.

Q. How long have you occupied that chair?

A. Oh, I have been Professor of Transportation there for 20 years. I have taught there for 26.

Q. And did you have teaching experience in the field of transportation before you came to Columbia?

A. For three years in the University of Pennsylvania.

Q. What degrees do you hold?

A. Well, I have an undergraduate degree of A. B. from the University of Indiana, an A. M. from the same institution. I have a Doctor's degree from Pennsylvania.

Q. Have you published various works on transportation? I ask you that question because my opponents have asked that of their professional witnesses and I want to put you [fol. 3288] on an even keel with them.

A. Well, I have written lots of articles for newspapers and periodicals. I have been a collaborator in a publication of one text book on transportation and I published one myself, and I published works on economic history, too. And I have done some popular books on transportation; probably some of you have seen them, I don't know.

By Chairman Aitchison:

Q. Are they popular?

A. Well, they have done pretty well. I refer in particular, Mr. Aitchison, to a book I got out for children, because of a lack of a book for a child of my own. It is called, "Trains, Tracks and Travel," and I have taken a great deal of delight that thousands—I won't say thousands, but hundreds of children have written to me attesting to the pleasure and instruction they got out of that book; so I say they are popular.

Mr. McCollester: Maybe the Interstate Commerce Commission can understand it. Mr. Chairman, I should say, maybe I can understand that, too.

I should say that Mr. Van Meter is called as a witness jointly by the states of New York and New Jersey. New Jersey is represented here by Mr. Bauman.

By Mr. McCollester:

Q. Now, Mr. Van Meter, have you, at our request, reviewed the testimony in this proceeding of Mr. Spottswood and others, and have you discussed with Mr. Bauman, rep- [fol. 3289] resenting New Jersey, and with me, the economic foundations, as we understand it, of the Southern contentions in this proceeding, and, if so, will you state as the basis of your testimony what the understanding is that you have gained from that review of the testimony and from the talks you have had with Mr. Bauman and me, your understanding of the economic basis of the Southern contentions?

A. Well, the South points out that there is a great disparity between the class rate structure in Southern territory and the class rate structure in the Eastern territory, and they claim that these rates have been imposed by a desire

on the part of certain economic interests to keep the South, as it were, in a sort of Colonial dependence, that is, keep it in a state of economic subservience to the East; the condition under which the South produces raw materials, agricultural commodities, and buys its finished manufactures from Eastern producers and merchants. They also claim that the South has the necessary facilities for manufacturing its own products, which now it purchases in considerable quantities from the East, and that it is held back because of the disparity in the class rate structure. They also claim the difference in the costs of transportation do not justify this disparity in the class rate structure and they suggest that the proper corrective, in order to permit the South to escape from its position of economic bondage, is to have, [fol. 3290] perhaps, a uniform classification with equal rates for equal distances. Now, that is my understanding of the position that has been taken.

Q. Now, will you first state what general comments you have to make on these points.

A. Well, first, there is no doubt with respect to the disparity between the class rates in the South and the class rates in the East. In the second place, I do not believe there is any conscious desire on the part of anybody in any part of the country to keep any other section in a state of economic bondage. I think there is an inclination for all of us to rejoice in the prosperity of any particular section of the country. As a matter of fact, if there is any intimation in this record whatever of the desire on the part of any region to live off of any other region, you find it, in some of this testimony, an indication that the South thinks it has a right, in the initial stages, anyhow, to live off of the East.

Now, thirdly, I do not believe that the present rate structure is what prevents industrial development in the South, and in the fourth place, I do not believe that an equal or a lower average cost of railway transportation in the South necessarily warrants the conclusion that the class rates in the South are now too high in comparison with the class rates in the North. Fifthly, I doubt very much if a uniform classification, with equal rates for equal distances, would necessarily lead to the development of manufactur- [fol. 3291] ing in the South; and finally, it seems to me in this proceeding that there are certain interests in the South that are asking the Interstate Commerce Commission to re-

shape the pattern of economic life in the South by a readjustment of rates.

Now, in the first place, I doubt if it can be done without going to ridiculous extremes in the matter of making rates, and I doubt, furthermore, if it is a function of the Interstate Commerce Commission or any other Governmental body to exercise such a power. That is, I think the Commission is called upon to correct inequalities in specific instances, to see that rates are reasonable, but I don't think it is called upon to call into being a certain pattern of economic and industrial development in any section of the country.

By Com. Splawn:

Q. What, in principle, Dr. Van Meter, would be the difference between the two positions which you have stated there? That is, as far as the Commission is concerned, or the carriers, rather, the carriers initiating rates? Is there fundamentally any difference between their trying to keep somebody out of the section or trying to promote a section?

A. You mean in the initiation of rates——

Q. Yes.

A. By the carriers?

Q. Yes.

A. I can understand that may possibly be done or the [fol. 3292] carriers might try to promote a section or they might try to do the other.

Q. I don't think you quite got my question. You state, I get the impression that you have from this testimony concluded that certain interests in the South think that the carriers have manipulated the rates to keep them out of manufacture or to discourage manufacture, and that you have also the impression that certain interests in the South want the rates adjusted so as to promote manufacturing in the South.

A. Yes.

Q. Now, I am asking you if there is any difference between those two, fundamentally, between those two objectives?

A. Well, of course I would raise the question, Mr. Splawn, as to your primary premise there, that anybody has attempted to frame a rate structure which would have

the object of keeping manufacture from developing in the South. I am inclined to think that the rate structure that we have at the present time is not the major cause for the failure of manufacturing to develop in the South.

Q. I didn't announce any premise at all.

A. Well, the initial part of your question.

Q. Or any conclusion. I was asking you, as an unusually able and well-qualified economist in the field of transportation, if there is fundamentally any difference in the two objectives, one to adjust rates to discourage something [fol. 3293] and the other to adjust rates to encourage.

A. Not a great deal, no.

Chairman Aitchison: What was the answer?

Mr. McCollester: "Not a great deal, no."

The Witness: But the point I was making, if I could repeat it again, is that here are certain interests coming to a Government body and asking it to exercise a function to call into existence, as it were, to give birth to a certain economic question.

Chairman Aitchison: Let me ask a question:

By Chairman Aitchison:

Q. The record shows that these class rates were made by the Commission.

A. Yes.

Q. We are not trying out a question here as to whether or not, at the time the Southern class rates and the Official rates which are now in effect were put in, somebody was attempting to stifle the development of one territory to keep somebody in a state of bondage. Certainly the Commission wasn't.

A. No, I don't think so.

Q. Those are the rates we have before us.

A. I certainly didn't wish to try to create the impression I thought the Commission was trying to keep the South in a state of bondage.

Q. When you stated what your understanding was of the case made by the South, I think you might have given [fol. 3294] the impression to somebody, who wasn't familiar with the testimony here, you thought the Southern carriers themselves made these rates.

A. No.

Mr. McCollester: Mr. Chairman, may I suggest——

Chairman Aitchison: I think this witness is eminently able to discuss this.

Mr. McCollester: I am sure he is; much better than I am.

Chairman Aitchison: Then leave it to him. Proceed.

The Witness: I didn't identify any particular group of interests which were endeavoring to keep the South in a state of economic bondage. In fact, I do not know the testimony indicates that. What it seems to indicate is that there is a general disposition on the part of certain interests, including commercial, manufacturing, other interests, to keep the South in a state of what we call economic subservience. They have used that term, Colonial dependence.

Q. In other words, that was the suggestion made by Mr. Spottswood?

A. Yes.

Q. That the rate structure was keeping the South in a state of economic bondage?

A. Yes.

Q. That is what you referred to when you said "economic bondage?"

[fol. 3295] A. Yes.

By Mr. McCollester:

Q. Now, Mr. Van Meter, will you elaborate a little more on some of the points that you have just made, particularly with reference to your statement that it would appear that some of the Southern interests believe that the South should initiate its industries at the expense of the North or be encouraged by the freight rates to do so.

A. Well, as I read the testimony with which I was provided, it seems to me that the emphasis was on interterritorial rates rather than on intraterritorial rates. That is, the idea seems to be that the Southern industry should be stimulated for the purpose of supplying the Eastern market, after which they will explore what possibilities they have in their own market. Now, this idea permeates Mr. Spottswood's testimony, I think, and it is probably stated a little bit more definitely and specifically in an article that was published by the Vanderbilt University Press, by Mr. Henry B. Cline, who, I understand, is Mr. Spottswood's associate and also an economist for T. V. A. If I may, I will read just a few lines from this.

Chairman Aitchison: Is that something that is in this record?

Mr. McCollester: Mr. Spottswood was questioned regarding the article and said that he collaborated in the article and agreed with it.

[fol. 3296] Mr. Norman: I beg your pardon. That wasn't the testimony.

Mr. McCollester: I beg your pardon, Mr. Chairman. He said he had collaborated in it, and I was prevented by the Bench from asking whether he agreed with the last paragraph, which contained a threat to the Commission. Otherwise, he said he agreed with it.

Mr. Norman: The record will speak for itself.

Mr. McCollester: If you will compare his testimony with Mr. Cline's article, you will find that one is almost word for word the other.

Chairman Aitchison: If this is going to go in the record, let's have it go in in the usual means.

Mr. McCollester: Well, it is not important, because Mr. Van Meter can proceed without it; but I think it is proper for him to make the quotation.

The Witness: The burden of his testimony is simply what I have mentioned before, that the Southern interests here seem to feel that they have a right to develop manufacturers and, in the earlier stages, these manufacturers should find a market in the Eastern states, and then they should proceed, as I said, to explore the opportunities in the home market after they have fattened off of the profits which they secured from their sales in the Eastern states.

Now, what I claim by that, that is an example of inverted [fol. 3297] thinking. That is, the usual course of the development of industries of that kind is to develop an industry to supply your home demands and create an export market out of the surplus left over after home demands are supplied. You hardly ever hear of starting an industry with the purposes of supplying a foreign market to build up resources with which you can supply, subsequently, your home market.

By Chairman Aitchison:

Q. What about the Pacific Coast lumber industry?

A. Beg your pardon?

Q. The Pacific Coast lumber industry was developed by Mr. Hill and others for the purpose of supplying other states than the Pacific Coast states.

A. It was built up of a surplus which existed there, however. Take the tobacco industry in Virginia, the same thing was true. It wasn't very long until you have a surplus that exists. It certainly didn't develop a market, export market with the conscious intention of developing resources so they could supply lumber for the Pacific Coast. The two things should be considered together.

By Mr. McCollester:

Q. All right, Mr. Van Meter, have you anything further on that point?

A. No.

Q. Now, why do you believe, as I understand you do, that the existing class rate structure or the rate structure [fol. 3298] as a whole is not the thing which has prevented and now prevents the South from attaining the degree of industrial development that has heretofore been attained in Official territory?

A. Well, I am inclined to believe that to say that the transportation rates of a particular region sets the pattern for the economic development is another example of inverted thinking. Now, there was a saying once, attributed to Ralph Waldo Emmerson, although I am not sure that he said it, there is some dispute about it, but he is said to have made a remark that if a man builds a better mousetrap than his neighbor even though he lives in the wilderness, the world will make a beaten path to his door. Now, what the South seems to be saying here, if you will make a beaten path to my door, I will build you a better mousetrap.

Now, I claim the South is not a non-manufacturing community because of its class rate structure, but it has its present class rate structure because of the character of the South's economic development.

By Chairman Aitchison:

Q. Well, it has its present class rate structure because the Commission made it. Now, the question before it is whether we made a mistake, whether it needs correction.

A. Well, economic differentiation in this country began at a pretty early period, long before there was a railroad and long before there was an Interstate Commerce Commission.

[fol. 3299] By Com. Alldredge:

Q. But not before there was some means of transportation, is that right?

A. How is that?

Q. But not before there was some means of transportation?

A. That is right.

Q. Is that right?

A. That is right. This economic differentiation continued after the railroads came and probably economic differentiation will continue. There are many things which bring about economic differentiation in certain parts of the country. Now, we all started from scratch in this country about the beginning of the 17th century and the resources we had then are about the same as the resources we have now. The South went one way and the East went one way and the West another way. Why? Well, there were many reasons for that. Certainly, transportation rates were not the major consideration which influenced the character of economic development in these particular regions. As a matter of fact, the South, when the South chose its path, it did pretty well, because when our National Government was organized, Virginia was the most popular state in the Union. It had as many representatives in our first Congress as New York and New Jersey put together; it furnished four of our first five Presidents. It selected the type of economic development which it preferred.

And this differentiation continued until we got what [fol. 3300] came to be pretty well known as the cotton-raising South, the manufacturing and commercial East, and the livestock grazing and agricultural West, with a subsequent development of manufacturing, particularly in the Midwest. Now, this came about by choice, through the choice of these people. They made their own selection, and there have been in the past a great many Southern leaders who have vigorously criticized the South because of the choice it made.

The group which is contending for the Southern position here, I think is the first group that I have ever heard of that have made the discovery that the present economic pattern of the South is one that has been fixed by the character of the freight rates. Now, back even before the war between the states, there was one commercial leader in the South by the name of Dubo. I think he was superintendent of the 7th census. He criticized the South very vigorously for its addiction to a one-type economic pattern; one type of product economic pattern. There was another man, of whom you have probably read, by the name of Helper, who wrote a very interesting book which was published in 1857, known as "The Impending Crisis," and in his criticism of the South's economic development, he made the remark that, "In one way or another we are more or less subservient to the North every day of our lives. In infancy we are swaddled in Northern muslin; in childhood we are humored with Northern gewgaws; in [fol. 3301] youth we are instructed out of Northern books; at the age of maturity we sow our wild oats on Northern soil; in the decline of life we remedy our eyesight with Northern spectacles; in old age we are drugged with Northern physic; and, finally, when we die, our inanimate bodies, shrouded in Northern cambric, are stretched upon the bier, borne to the grave in a Northern carriage, entombed with a Northern spade, and memorized with a Northern slab."

By Mr. McCollester:

Q. Now, that was the situation before the railroad freight rates, even as fixed by the I. C. C. could be responsible for it?

A. That is right. What I say is that the railroads found this differentiation, they didn't make it. This differentiation was here when they first came. And now they have found not only different economic patterns in different sections of the country, but they found varying competitive conditions in different sections of the country, and these varying competitive relationships and these different economic conditions led to patterns of rates, some of which have been changed but yet have been for a long time distinctive in this country. It was variation in competitive conditions and the differentials in economic patterns that

led us to have three classifications in the 80's instead of a single classification. It was those same conditions that led to the creation of some of our interesting rate structures [fol. 3302] which I used to study when I first commenced studying transportation, as far as the old Southern basing point system, the Eastern percentage system with its seaboard differentials, the transcontinental rate system with its blanket extending from the Missouri River on one side to the Atlantic Seaboard on the other and which was marked by the extreme discrimination against intermountain rate points. Now, these things change with time.

By Com. Splawn:

Q. Wasn't it some of your articles and criticisms of that confusion which contributed to the reforms that you have seen made?

A. I beg you pardon, sir?

Q. Wasn't it some of your criticisms of the confusion which you have described there, in the early freight rates, that contributed to improvements?

A. Why, I wouldn't be that vain, Mr. Splawn.

Q. You pointed out, didn't you, in some of your writings as to the Southern basing point system, and how that freight rate structure down there had grown like Topsy?

A. Yes, it followed a pattern of competition and of economic development which it found in the South. The development of the pattern was perfectly logical, perhaps, from the structure of transportation facilities in an area which had the competitive conditions on an economic basis such as it found in the South.

Now, things have changed a great deal since that time. [fol. 3303] For instance, with the elimination of water transportation in the South, the Southern basing competition has been virtually wiped out. Even the old Eastern percentage system, with its seaboard differentials, has been changed. The old transcontinental rate system, the big blanket is no longer there and there isn't so much discrimination against intermountain territory. But what I want to emphasize about all of this is that all of these changes in the rate structures of which I speak, including even the greater degree of uniformity in our classification, they have followed economic changes and changes in competitive relationships and they haven't preceded it.

For example, some of you may remember the so-called Michigan percentage cases back in 1917. I always liked it so well because the Commission saw fit to print a little colored map of those Eastern percentage states. It was a very convenient thing to hang on the wall. You may remember that, Mr. Splawn. Now, in those Michigan percentage cases, it seems to me that the Michigan people didn't come and say, now, we want to enter into competitive manufacturing with people in Indiana and Ohio, and consequently won't you change our rate structure, please, so we can do this. They had gone ahead and developed industrially in southern Michigan, and once they had assumed a position of that kind, they went to the Commission and said that, our competitive relationships in Indiana [fol. 3304] and Ohio are such to justify a realignment in our rates. That is, the change in the rate structure followed and did not precede the connection of the economic development in southern Michigan which led to a revision of the Eastern percentage system, as far as those particular communities were concerned.

By Mr. McCollester:

Q. Is there anything further you want to say, Mr. Van Meter?

A. Well, not so very much. I believe that the South can build up its manufacturing under the system of present rates. It has opportunities of which it possibly has not taken advantage. It has resources; the South points out itself the resources it has. It has a good labor supply. I think some of the testimony here has been on the character of the labor supply and its efficiency. They have a good climate and thanks to the Federal Government, in certain sections of the South they now have an abundance of fairly cheap power.

Now, there are several important manufacturing industries which the South might have, regardless of the territorial class rates that exist at present or regardless of the intraterritorial class rates that exist at present. Now, Mr. Spottswood himself named some of those industries, but he doesn't show at all how the transportation rates, the class rates in existence at the present time prevent the development of those particular industries.

[fol. 3305] Now, take textile machinery, for instance. There is no reason under the sun with respect to freight rates that I can see which prevents the development of textile machinery in the South. You had the tables a moment ago. It was in North Carolina, they had made a start in it there. The great mass of textile production, not the great mass but a very substantial portion of the cotton loomed in the United States is now loomed in the South. There is a market for textile machinery. Certainly, by the farthest stretch of the imagination, you cannot say that the system of freight rates prevents North Carolina from providing cotton textile machinery for factories next door, who must now go to Massachusetts and New York to buy cotton textile machinery.

Now, cotton textiles are sent North for further processing. There is no reason under the sun why the South couldn't process its own gray material. It would be cheaper for them to do it, as a matter of fact, because now they send it North to have it processed and then have to ship it back again. They pay a double freight rate where a single freight rate would suffice. Then take aluminum ingots. Mr. Spottswood mentioned that. The Southeast produces most of the aluminum ingot and aluminum plate. There is no reason under the sun why they have got to ship it out of the South to make pots and pans or airplanes or what not.

Now, whatever it is that is preventing the development of [fol. 3306] manufactures of this particular type in the South, it certainly isn't freight rates or the character of the class rates; and I fail to see, if this is true, how any particular change in the character of the class rate structure would stimulate the development of these particular manufacturing industries in the South. As a matter of fact, in the more highly finished products, and I think any economic geographer that has made the study of planned location would confirm this belief, that the location of highly-finished manufactures is not dependent to a very large extent upon freight rates. Freight rates don't explain why you have got brass in Connecticut. Freight rates don't explain why you have machine tools in Vermont. Freight rates don't explain why they make shirts and collars in Troy, New York. Freight rates don't explain why they make women's dresses in New York City. There are many other reasons that explain that, but certainly it is not freight rates. Freight rates play a very little part, often,

in the location of an industry which is devoted to the production of highly finished manufactured articles, and you can name dozens of them like that.

What does it? There are many circumstances that control that. Year after year we get new products. The South has the same chance to engage in the development of the new products before we even put the freight rates upon them that the East or the West had. Plastics, synthetic [fol. 3307] rubber. There is nothing being done with respect to freight rates in this country that would prevent the development of those industries in the South. As a matter of fact, I think in some of these advertisements that Mr. Robinson reproduced, that some Southern Governor referred to the South not as an economic problem No. 1 but as economic opportunity No. 1 in this country. It didn't need change in freight rates to develop its big textile industry. It developed there anyhow.

By Chairman Aitchison:

Q. Are you sure about that?

A. Yes.

Chairman Aitchison: All right.

The Witness: If it takes advantage of the opportunities which it has there at the present time, why, the manufacturing industries which the South so dearly wants can be developed without any particular change in freight rates.

By Chairman Aitchison:

Q. Back to the textile industry. In your judgment, would the textile industry of the South have developed to its present state if it had not had equalization with New England, with Chicago?

A. Yes, I think so.

Q. Undoubtedly?

A. Oh, I think so. I think there are other considerations that are much more important than the freight rate. I think those same considerations prevail with regard to the development of other industrial manufactures.

[fol. 3308] Q. Then it is, pari passu, equally immaterial to New England whether it has an equalization with Chicago or not?

A. I beg your pardon?

Q. I say, pari passu, it is equally immaterial to New England whether it has an equalization with Chicago or not?

A. Pari passu, I do not think it was any decline in freight rates which led to the development of the textile industry in the South, which led to the migration of the textile industry to the South.

Q. You mentioned a point with respect to the highly finished manufactures and you cited textiles as one example and others.

A. I didn't cite textiles as an example of highly finished manufacture. I mentioned brass, dress goods, shirts, collarware. I didn't mention textiles as a whole.

Q. You mean the finished dress goods?

A. Dresses, dresses in New York City.

Q. It hasn't any point at all, any part, rather, in developing the textiles in the South, if they had had equalization as to Chicago? Would it have any detrimental effect at Boston and New England if that section didn't have equalization with Chicag[illegible]

A. Not a great de[illegible] That is, I think that the other factors, as to weighting, in connection with the migration of the textile industry, that the equalization of transportation rates would play a comparatively minor part.

[fol. 3309] Chairman Aitchison: I think I will have to call attention to the fact that we have to surrender the room at 11:30 sharp today, and I ask him to interrupt his speech at this point.

The Witness: I am finished, Mr. Aitchison.

Chairman Aitchison: We won't start the cross-examination until after lunch. It will be necessary to remove all your papers, unless you want to throw them away.

Off the record.

(Discussion outside the record:)

(Witness excused.)

Chairman Aitchison: We will recess at this time until 2 o'clock this afternoon.

(At 11:29 o'clock A.M. recess taken to 2 o'clock P.M.)